

Page 1

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Vonzell Scott, Sr.,

Plaintiff,

vs.

Case Number 2020 CV 6829

Wendy's Properties, LLC, et al.

Defendants.

Video Deposition of S. Ronald Hauri

Wednesday

March 30th, 2022

-at-

Keefe, Campbell, Biery & Associates

118 North Clinton Street

Suite 300

Chicago, Illinois 60661

PLAINTIFF'S
EXHIBIT

| | | | | |
|----|--|-------------|--|---|
| | | Page 2 | Page 4 | |
| 1 | APPEARANCES | | | |
| 2 | For the Plaintiff: | | | |
| 3 | Michael K. Muldoon | 1 | THE RECORDER: Good afternoon. We are now on | |
| 4 | Muldoon & Muldoon | 2 | the record, Wednesday, March 30th, 2022. The time is | |
| 5 | 111 West Washington Street | 3 | 1:04 p.m. We are located at Keefe, Campbell, Biery & | |
| 6 | Suite 1500 | 4 | Associates, at 118 North Clinton Street, Suite -- Suite | |
| 7 | Chicago, Illinois 60602 | 5 | 300, Chicago, Illinois 60661, for a video-recorded | |
| 8 | | 6 | deposition in the matter of Vonzell Scott, Sr. versus | |
| 9 | | 7 | Wendy's Properties, LLC, et al., Case No. 20 CV 6829, | |
| 10 | | 8 | before the Northern District of Illinois, Eastern | |
| 11 | | 9 | Division. 0:00:32 | |
| 12 | For the Defendant: | 10 | This deposition is being recorded by In | |
| 13 | Bradley J. Smith | 11 | Demand Court Reporting, located at 216 South Jefferson | |
| 14 | Keefe, Campbell, Biery & Associates, LLC | 12 | Street, Chicago, Illinois 60662 (sic), on behalf of the | |
| 15 | 118 North Clinton Street | 13 | Defendant and being taken at the instance of the | |
| 16 | Suite 300 | 14 | Defendant. The witness today is S. Ronald Hauri. 0:00:44 | |
| 17 | Chicago, Illinois 60661 | 15 | Mr. Hauri, my name is Allyson Pritchard. I'm | |
| 18 | | 16 | a notary public and the video recording device operator | |
| 19 | | 17 | for this deposition. At this time, would you please | |
| 20 | | 18 | raise your right hand for the oath? 0:00:52 | |
| 21 | | 19 | (Witness sworn) | |
| 22 | | 20 | THE RECORDER: Thank you. | |
| 23 | | 21 | Would the attorneys please state their | |
| 24 | | 22 | appearances for the record? 0:01:01 | |
| 25 | | 23 | MR. MULDOON: Michael Muldoon for the | |
| | | 24 | Plaintiff. | |
| | | 25 | MR. SMITH: Bradley Smith on behalf of | |
| | | Page 3 | Page 5 | |
| 1 | EXAMINATION INDEX | | | |
| 2 | DIRECT | CROSS | 1 | Defendant. 0:01:06 |
| 3 | | REDIRECT | 2 | THE RECORDER: That completes the required |
| 4 | 5 | 158 | 3 | information, and we can proceed. |
| 5 | | 163 | 4 | DIRECT EXAMINATION |
| 6 | | -- | 5 | BY MR. SMITH: |
| 7 | | | 6 | Q. Mr. Hauri, can you state and spell your name |
| 8 | CERTIFIED QUESTION | | 7 | for the record today? 0:01:11 |
| 9 | PAGE NUMBER | | 8 | A. S. Ronald Hauri. H-A-U-R-I. |
| 10 | | LINE NUMBER | 9 | Q. And this deposition's going to be taken |
| 11 | 53 | 21 | 10 | pursuant to the Federal Rules of Civil Procedure, the |
| 12 | EXHIBIT INDEX | | 11 | Federal Rules of Evidence, applicable Local Rules in |
| 13 | EXHIBIT | PAGE NUMBER | 12 | the Northern District of Illinois. 0:01:26 |
| 14 | 1 - | 9 | 13 | I know you've given multiple depositions in |
| 15 | 2 - | 47 | 14 | the past. Correct? |
| 16 | 3 - | 51 | 15 | A. Yes. |
| 17 | 4 - | 115 | 16 | Q. And I'm assuming you know the rules of how |
| 18 | | | 17 | depositions proceed. 0:01:34 |
| 19 | | | 18 | A. Yes. |
| 20 | | | 19 | Q. As a part of that, you'll make sure that you |
| 21 | | | 20 | understand my question -- all my questions today before |
| 22 | | | 21 | you answer them. |
| 23 | | | 22 | A. Yes. 0:01:44 |
| 24 | | | 23 | Q. If you don't understand one or you don't hear |
| 25 | | | 24 | one, let me know. Okay? |
| | | | 25 | A. I will. 0:01:49 |

2 (Pages 2 to 5)

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|---|--|
| <p style="text-align: center;">Page 6</p> <p>1 Q. All right. Mr. Hauri, can you define -- I'd 2 -- I'd like you to define a -- a military -- I know you 3 have some police background. 0:02:06</p> <p>4 I'd like you to define military or combat 5 style attack or execution on an individual for me. 6 That sort of phrase. 0:02:14</p> <p>7 A. Well, it depends upon -- it depends upon what 8 branch of the military we're talking about. But in 9 short, something that may well be pre-trained and -- 10 and even pre-planned to -- depending on the target, to 11 eliminate or capture the target. 0:03:05</p> <p>12 Q. And with a -- that -- that sort of definition 13 in mind --</p> <p>14 THE RECORDER: Sorry. 0:03:15</p> <p>15 MR. SMITH: It's okay.</p> <p>16 BY MR. SMITH:</p> <p>17 Q. With that definition in mind as pre-planned 18 or pre-trained to eliminate or execute a target, can 19 that also happen through private training of some sort? 0:03:34</p> <p>20 A. Oh, of course.</p> <p>21 Q. Can that happen -- can that be learned from 22 gang or other violence?</p> <p>23 A. Yes. 0:03:44</p> <p>24 Q. Okay. And I understand in your background, 25 you've -- you've -- you've -- you've worked with a lot</p> | <p>1 are different reasonable standards that apply to those 2 two as far as securing areas or preventing criminal 3 activity. 0:06:04</p> <p>4 A. I suppose. You -- you're -- you're not 5 looking at criminal activity necessarily in -- in a 6 conflict zone. 0:06:19</p> <p>7 You -- you have in a conflict zone usually 8 some sort of quasi-military or full-on military 9 combatants on either side. So it -- it's not an issue 10 of -- when -- when you say criminal activity, we don't 11 look at something like that as the bad guys are going 12 to come in and do an armed robbery. 0:06:51</p> <p>13 Or commit some -- some other type of regular 14 crime against their target. So usually it involves an 15 operation that's designed to take over the objective 16 and even kill or capture the people that are holding 17 that particular objective. 0:07:27</p> <p>18 Q. Okay. And can you define one other thing for 19 me? I want to know the definition -- excuse me -- the 20 definition of reasonably foreseeable, your definition 21 as it relates to this case. 0:07:40</p> <p>22 A. My definition would be that reasonable means 23 that you'll take steps to mitigate what can be 24 anticipated.</p> <p>25 Q. And what is foreseeable? 0:08:10</p> |
| <p style="text-align: center;">Page 7</p> <p>1 of Fortune 500 company -- companies. You've also 2 worked in other countries. 0:03:59</p> <p>3 Is that fair as far as security issues?</p> <p>4 A. Yes.</p> <p>5 Q. And you've worked in war zones? 0:04:05</p> <p>6 A. Conflict zones. Yes.</p> <p>7 Q. Okay. And in those zones, tell me a little 8 bit about how you attempted to advise on security 9 issues to your clients in those types of zones. 0:04:20</p> <p>10 A. Well, you would start with certainly an 11 assessment, a situation assessment, of what's going on 12 in your environment. And use that information against 13 what you're planning to do, what you need to do. 0:04:49</p> <p>14 What -- what is it that you want to 15 accomplish.</p> <p>16 Q. Mm-hmm. And in the past, have you secured 17 certain perimeters for clients in conflict zones? 0:04:58</p> <p>18 A. Thinking back. We were involved when I 19 worked for Amoco in creating a drilling area for oil in 20 Colombia. 0:05:27</p> <p>21 And we utilized the Colombian military to 22 build a -- a platform basically to support the 23 operations there.</p> <p>24 Q. And as far as the reasonable standards for a 25 combat zone versus a normal non-conflict area, there</p> | <p>1 A. Well foreseeable is based on elements such as 2 prior history of a location and an understanding of the 3 environment where the location is. Or the facility, if 4 you will, is located. 0:08:32</p> <p>5 And then the operational aspects of that 6 business. And what it's there to do. 7 (Exhibit No. 1 marked for identification.)</p> <p>8 BY MR. SMITH:</p> <p>9 Q. Okay. I've marked for you what's been marked 10 -- or I've marked Hauri Exhibit 1 for you. 0:08:56</p> <p>11 MR. MULDOON: Thank you.</p> <p>12 BY MR. SMITH:</p> <p>13 Q. What is it?</p> <p>14 A. Plaintiff's Rule 26 Disclosures to Defendant. 0:09:07</p> <p>15 Q. Okay. And towards the end of that document, 16 I believe your curriculum vitae Professional Experience 17 is there on page 17 of that document. 0:09:20</p> <p>18 A. Excuse me. Yes. I see the --</p> <p>19 Q. Is there anything that needs to be changed 20 today as we sit here in that Professional Experience 21 document that you've submitted? 0:09:37</p> <p>22 A. I don't believe so.</p> <p>23 Q. I want to talk about your past. You were a 24 -- a -- you worked as a -- a police chief in Waukegan? 0:09:53</p> <p>25 A. Correct.</p> |

3 (Pages 6 to 9)

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| <p style="text-align: right;">Page 10</p> <p>1 Q. How many years were you a police chief in 2 Waukegan for? 3 A. Three and a half, I believe. 0:10:01 4 Q. And why did you leave that position? 5 A. A medical issue. 6 Q. Okay. And what was your next position after 7 that? 0:10:15 8 A. I was the manager of protection services for 9 Amoco. 10 Q. And is that -- in each role, you were in the 11 private sector after being a police chief. Is that 12 fair? 0:10:36 13 A. Yes. 14 Q. When did you leave the -- the -- the public 15 sector? 16 A. 1988. 17 Q. Is that the last time you did any public 18 sector police work? 0:10:51 19 A. Yes. 20 Q. When you were in the private sector, 21 generally, what did your positions -- what were your 22 duties in those positions? 23 A. To manage a corporate security operation. 24 All things related to what's usually -- usually termed 25 as corporate security. 0:11:34</p> | <p style="text-align: right;">Page 12</p> <p>1 criminal act is preventable. Correct? 2 A. Correct. 0:13:33 3 Q. Not every attempted homicide is preventable. 4 Correct? 5 A. Yes. 6 Q. Homicides that relate to targeted or combat 7 style targeted issues are difficult to pre- -- prevent. 8 Correct? 0:14:01 9 A. They're more difficult than others. Yes. 10 Q. Why is that? 0:14:09 11 A. Because you have a -- a -- a different 12 motivation, if you will. Oftentimes predators, 13 criminal predators, will work very hard at defeating 14 the mitigation strategies. 0:14:33 15 As opposed to the casual criminal, if you 16 will, who might walk into an opportunity to commit a 17 crime. 18 Q. So it's -- it's harder -- it -- tell me if 19 this is a fair statement. 0:14:52 20 It's harder to prevent a targeted combat 21 style homicide than it is to prevent normal criminal 22 activity such as robbery, burglary, that sort of thing. 0:15:08 23 MR. MULDOON: Objection -- 24 BY MR. SMITH: 25 Q. Fair?</p> |
| <p style="text-align: right;">Page 11</p> <p>1 So that could include assessing locations and 2 making recommendations for target hardening and 3 mitigating against known risks. 0:12:01 4 I dealt with human resources departments, 5 legal departments, police departments, a -- a -- a 6 pretty wide variety of interests, if you will. 0:12:16 7 Q. Okay. 8 A. To -- in order to protect the assets of the 9 corporation, including its customers, its employees, 10 etc. 11 Q. Are some criminal acts unpreventable? 0:12:37 12 MR. MULDOON: Objection as to broad and 13 speculation. 14 Go ahead. 15 THE WITNESS: There are no guarantees that -- 16 and when we -- when we look at -- at the reasonableness 17 issue, there are no guarantees. 0:12:57 18 There's -- nothing is going to be 100 percent 19 perfect. It's not perfection. It's -- it's 20 reasonableness. 0:13:04 21 Did you do the right thing. As opposed to 22 can you make it perfect. So as we all know, there are 23 no guarantees in life. And that applies here as well. 0:13:20 24 BY MR. SMITH: 25 Q. And I guess what I'm getting at is, not every</p> | <p style="text-align: right;">Page 13</p> <p>1 MR. MULDOON: -- relevance. 2 THE WITNESS: Well, I -- I wouldn't say it's 3 necessarily harder. But it's more complicated. 0:15:21 4 BY MR. SMITH: 5 Q. And I don't want to quibble (phonetic) over 6 the definition of harder versus complicated. But 7 complicated means it is more difficult to prevent a 8 combat style targeted homi- -- attempted homicide as 9 opposed to your average everyday crime like a burglary 10 or robbery. Correct? 0:15:41 11 A. Well, like every -- I -- I -- 12 MR. MULDOON: I'll just object to asked and 13 answered. 0:15:48 14 THE WITNESS: The -- the -- the offender in 15 what you're asking -- a lot of the success of the 16 offender depends on their capabilities and their 17 motivation. 0:16:13 18 How strongly are they motivated. And usually 19 a military style attack on someone indicates there's 20 more planning, if you will. 0:16:30 21 And you have to mitigate against that. But 22 if -- if the bad guys starts to commit a crime in a 23 combat style method and he's not very good at it, then 24 it's easier to defeat. 0:16:50 25 So it really depends on the level of training</p> |

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| <p style="text-align: right;">Page 14</p> <p>1 and motivation that the offender has. 2 BY MR. SMITH: 3 Q. A targeted pre-planned military combat style 4 attempted homicide is more difficult to prevent than a 5 -- a normal criminal act such as burglary or robbery. 6 Correct? 0:17:22 7 MR. MULDOON: Objection. That's been asked 8 and answered twice now and it's also a objection as to 9 -- as to relevance. 10 BY MR. SMITH: 11 Q. You can answer. 0:17:28 12 A. Not necessarily correct. No. 13 Q. Why is that, sir? 14 A. Well, because as I said, it depends on their 15 capability and their motivation. 0:17:40 16 Q. Have you seen news of federal judges being 17 targeted at their homes both in New Jersey and in 18 Illinois in the past ten years -- 19 MR. MULDOON: Objection -- 0:17:55 20 BY MR. SMITH: 21 Q. -- with -- 22 MR. MULDOON: -- relevance. 23 BY MR. SMITH: 24 Q. -- targeted killings? 25 A. Yes. 0:18:00</p> | <p style="text-align: right;">Page 16</p> <p>1 particular goal or premeditation, it is more difficult 2 to prevent it. 0:18:51 3 Is that a fair statement? 4 MR. MULDOON: Objection. Relevance. 5 THE WITNESS: No, not really. 0:18:59 6 BY MR. SMITH: 7 Q. Why, sir? 8 MR. MULDOON: Same objection. 9 THE WITNESS: There are certain security 10 measures that some people have to take. And they may 11 not know about a specific individual who wants to 12 commit a homicide against them. 0:19:29 13 Yet they'll still plan their security program 14 considering that that could be an outcome. 15 BY MR. SMITH: 16 Q. And in doing so, usually that involves either 17 keeping yourself away from the predator criminal. 18 Fair? 0:19:53 19 MR. MULDOON: Objection. Relevance. 20 THE WITNESS: Well, you can't keep yourself 21 away from him if you don't know him. Or her. 0:19:59 22 BY MR. SMITH: 23 Q. But in generally speaking, that would be one 24 way to prevent the predator criminal from attacking you 25 in a homicidal fashion. Fair? 0:20:10</p> |
| <p style="text-align: right;">Page 15</p> <p>1 Q. Right in our own Northern District of 2 Illinois. Fair? 3 MR. MULDOON: Objection. Relevance. 0:18:05 4 THE WITNESS: Yes. 5 BY MR. SMITH: 6 Q. And that attack was successful. Yes? 7 MR. MULDOON: Objection. Relevance. 0:18:10 8 THE WITNESS: Yes. As I recall. 9 BY MR. SMITH: 10 Q. And the one in New Jersey was at least 11 successful in killing a son of a federal judge. 0:18:18 12 MR. MULDOON: Objection -- 13 BY MR. SMITH: 14 Q. Fair? 15 MR. MULDOON: -- relevance. 16 THE WITNESS: I believe so. 0:18:21 17 BY MR. SMITH: 18 Q. And those circumstances involved targeted 19 style killings. Correct? 20 MR. MULDOON: Objection. Relevance. 0:18:26 21 THE WITNESS: I believe so. Yes. 22 BY MR. SMITH: 23 Q. Okay. When the predator or combat style 24 criminal is pre-planning an -- a -- a homicide goal, if 25 the other individual does not know about that</p> | <p style="text-align: right;">Page 17</p> <p>1 MR. MULDOON: Objection. Relevance. 2 BY MR. SMITH: 3 Q. If you were never in contact with them or if 4 you stayed away from them? 0:20:16 5 MR. MULDOON: Same objection. 6 THE WITNESS: But that concludes that you 7 know who that person is. 8 BY MR. SMITH: 9 Q. Isn't that why witnesses sometimes go into 10 witness protection programs? 0:20:28 11 MR. MULDOON: Objection -- 12 THE WITNESS: Yes. 13 MR. MULDOON: -- relevance. 14 BY MR. SMITH: 15 Q. And so putting space between yourself and the 16 predator criminal where they can't find you -- 17 sometimes that will prevent a -- a -- a pre-planned 18 homicide attempt. Fair? 0:20:40 19 MR. MULDOON: Objection. Relevance. 20 THE WITNESS: Yes. 21 BY MR. SMITH: 22 Q. Also, in line with what your answer was a 23 second ago, the other thing that some Americans do to 24 prevent homicides are to arm themselves in self 25 defense. Fair? 0:20:59</p> |

5 (Pages 14 to 17)

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|---|---|
| Page 18 | Page 20 |
| <p>1 MR. MULDOON: Objection. Relevance. 2 THE WITNESS: Yes. 3 BY MR. SMITH: 4 Q. That's one of the ultimate ways to attempt to 5 prevent a pre-planned predator criminal's homicide 6 against you. Is that fair? 0:21:11 7 MR. MULDOON: Objection. Relevance. 8 BY MR. SMITH: 9 Q. If you know it's coming. 0:21:15 10 A. If -- if -- 11 MR. MULDOON: Same -- 12 THE WITNESS: -- you know -- 13 MR. MULDOON: -- objection. 14 THE WITNESS: -- it's coming. 15 THE RECORDER: I'm sorry. Did you say same 16 objection? 0:21:20 17 MR. MULDOON: Give me a second, okay, before 18 your answer. 19 BY MR. SMITH: 20 Q. And criminal predators. Can you describe for 21 me what you would define as a -- a -- I think we've 22 been talking about in the form of an attempted 23 homicide, but a criminal predator in that sort of 24 definition of a -- a criminal homicide type of person? 0:21:41 25 What would you define that as a -- a criminal</p> | <p>1 BY MR. SMITH: 2 Q. And why do they do that? 0:23:02 3 MR. MULDOON: Objection. Relevance. 4 THE WITNESS: Because they want to be 5 successful at what they're planning. 0:23:10 6 BY MR. SMITH: 7 Q. And for a criminal predator attempting a 8 homicide on a victim, is there any variable time that 9 you consider stalking -- that they would stalk that 10 person that generally from your background, knowledge, 11 experience -- is there a certain amount of time? 0:23:31 12 How long do they take? What do they do to 13 stalk people? 14 MR. MULDOON: Objection. Relevance. 0:23:35 15 THE WITNESS: It all depends on the 16 individual and their ability to carry out the stalking. 17 And the availability of the potential victim to be 18 stalked. Or not, as the case may be. 0:23:59 19 BY MR. SMITH: 20 Q. Are -- sometimes do criminal predators stalk 21 their victims in vehicles or cars? 22 MR. MULDOON: Objection. Relevance. 0:24:11 23 THE WITNESS: Yes. 24 BY MR. SMITH: 25 Q. Okay. Hang on just one second.</p> |
| Page 19 | Page 21 |
| <p>1 predator? 2 MR. MULDOON: Objection. Relevance. 0:21:46 3 THE WITNESS: Someone who has a grudge 4 against an individual or a company. It could be 5 someone who is mentally deranged. 0:22:07 6 There are a lot of motives out there that -- 7 that could be assigned to that kind of activity. 8 BY MR. SMITH: 9 Q. It's -- it's one of our biggest fears, right, 10 of somebody mentally deranged coming in and doing 11 something crazy; is that fair? 0:22:27 12 MR. MULDOON: Objection. Relevance. 13 THE WITNESS: What do you mean by our? 0:22:32 14 BY MR. SMITH: 15 Q. I'll strike the question. 16 Do criminal predators sometimes stalk the 17 victims prior to attempting to commit a criminal 18 homicide? 0:22:44 19 MR. MULDOON: Objection. Relevance. 20 THE WITNESS: Yes. 21 BY MR. SMITH: 22 Q. Do -- is that sometimes indicated in their 23 pre-planning efforts, the stalking of the victim? 0:22:56 24 MR. MULDOON: Same objection. 25 THE WITNESS: Yes.</p> | <p>1 MR. SMITH: Can we go off the record, please? 2 THE RECORDER: Going off record at 1:28 p.m. 0:24:20 3 (Off the record) 4 THE RECORDER: Back on record at 1:29 p.m. 5 BY MR. SMITH: 6 Q. So just -- just going back to that question. 7 I'm sorry if I'm repeating it. I don't remember, but. 0:24:31 8 Do criminal predators sometimes stalk their 9 victims in cars, vehicles? 10 MR. MULDOON: Objection. Relevance and asked 11 and answered. 0:24:42 12 THE WITNESS: Yes. 13 BY MR. SMITH: 14 Q. And how do they do that? Do they remain 15 behind the victim and try to watch where they're going 16 and wait for an opportune time? 0:24:50 17 Or what does -- what does a criminal predator 18 usually do in that situation? 19 MR. MULDOON: Objection -- 20 BY MR. SMITH: 21 Q. To be -- 0:24:54 22 MR. MULDOON: -- relevance. 23 BY MR. SMITH: 24 Q. -- successful. 25 MR. MULDOON: Same objection.</p> |

6 (Pages 18 to 21)

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| <p style="text-align: right;">Page 22</p> <p>1 THE WITNESS: Well, certainly I think what 2 you're describing is -- is that they follow their 3 victim. And yes, that happens. 0:25:14</p> <p>4 But there are other ways to stalk the victim, 5 whether it's electronically through social media or 6 whether it's going to their place of work or worship, 7 places that the stalker knows that they go to, or could 8 be in their office. Or place of work. 0:25:45</p> <p>9 BY MR. SMITH:</p> <p>10 Q. Do predator -- criminal predators sometime 11 wait for the opportune moment to attempt -- I -- now, I 12 know that generally, but I'm talking about in a 13 homicide fashion. 0:26:02</p> <p>14 Do they want for an opportune time to attempt 15 the homicide?</p> <p>16 MR. MULDOON: Objection. Relevance.</p> <p>17 THE WITNESS: I suppose they do sometimes. 18 Other times, they'll find an opportunity. 0:26:15</p> <p>19 They'll literally stumble across an 20 opportunity to commit the crime. And -- and just to -- 21 to more clearly define this, you know, we're -- we're 22 using this term criminal predator. 0:26:30</p> <p>23 Those aren't just stalkers. Criminal 24 predators are people who prey upon members of society 25 and oftentimes operate on an opportunity basis. 0:26:50</p> | <p style="text-align: right;">Page 24</p> <p>1 A. I actually did my first case I think in 1995. 2 Q. And have you been doing cases ever since the 3 year 1995? 0:28:53</p> <p>4 A. Off and on. 5 Q. Are they usually -- what -- what are your -- 6 probably your highest percentage of cases? Bars, 7 nightclubs? 0:29:01</p> <p>8 A. No. 9 MR. MULDOON: For -- I'm sorry. For which? 10 MR. SMITH: Since he's been working in the 11 litigation field. 0:29:10</p> <p>12 MR. MULDOON: Okay. But he also does 13 consulting. So -- 14 MR. SMITH: Yeah. 15 MR. MULDOON: -- you gotta just, you know, 16 make sure you're clear. 0:29:13</p> <p>17 BY MR. SMITH:</p> <p>18 Q. Since you've been in the litigation field in 19 1995, has your highest percentage of cases been factual 20 circumstances involving bars, nightclubs, places that 21 serve alcohol? 0:29:28</p> <p>22 A. I really don't know because I -- I -- I 23 haven't -- I haven't counted them to -- to see where 24 the -- the most work lies. I would have to guess at it 25 and say it's about even with other types of -- of</p> |
| <p style="text-align: right;">Page 23</p> <p>1 Something comes up, a target comes up that 2 they think is weak, and they'll take advantage of it. 3 BY MR. SMITH:</p> <p>4 Q. And in that same fashion, sometimes when the 5 opportunity's right, or not right, they'll still take 6 advantage of it. Fair? 0:27:10</p> <p>7 A. Yes.</p> <p>8 Q. Want to get back into your experience. When 9 you were in the private sector, when did you stop 10 working for businesses and start working more in the 11 consulting and expert witness area? 0:27:37</p> <p>12 MR. MULDOON: Meaning -- objection. That 13 assumes facts that are -- 14 BY MR. SMITH:</p> <p>15 Q. Well, did that happen? 0:27:43</p> <p>16 A. Well, I left the corporate world as an 17 employee from time to time. When I was between 18 positions, I would do some consulting for different 19 corporations. 0:27:59</p> <p>20 And then in -- oh, I think it was about 2007, 21 I went into consulting on a full-time basis. And my 22 litigation work began some years after that. Several 23 years, I'd say. 0:28:35</p> <p>24 Q. Do you know when you started doing litigation 25 work?</p> | <p style="text-align: right;">Page 25</p> <p>1 cases. 0:29:55</p> <p>2 Q. What other types of cases have you had 3 besides this particular restaurant case that we're 4 talking about today? Factually. Settings. 0:30:05</p> <p>5 A. I'm sorry. Can you repeat that?</p> <p>6 Q. Yeah. What other types of factual settings, 7 you know, have you been on cases for besides this one 8 today we're talking about a restaurant? 0:30:19</p> <p>9 And I'm -- I'm differentiating restaurants 10 versus bars, nightclubs, places that serve alcohol.</p> <p>11 A. I -- I -- you know, I really don't know. I 12 -- looking back at cases, I've dealt with a number of 13 different venues. 0:30:42</p> <p>14 Retail operations. Hotels.</p> <p>15 Q. Okay.</p> <p>16 A. Housing complexes. Those are just a few of 17 the ones I can think of right off the top of my head. 0:31:02</p> <p>18 Q. What are the percentage of your cases in 19 homicides or attempted homicides over the years in 20 litigation setting versus burglaries, robberies, stuff 21 like that? Breaking and entering? 0:31:14</p> <p>22 A. Wow. I -- I really don't know. I just -- I 23 -- I don't track those kinds of descriptors. 0:31:26</p> <p>24 Q. Mm-hmm. Most of the cases I found -- and 25 you've been in a lot of cases -- seem to be in bars and</p> |

7 (Pages 22 to 25)

(773) 239-6008

| Page 26 | | Page 28 |
|--|---------|--|
| 1 restaurants or nightclubs. | 0:31:33 | 1 Q. And what did you teach? What was the |
| 2 Is that a fair statement? | | 2 lecture? |
| 3 A. I don't know what you mean by most. But I -- | | 3 A. The lecture was in regards to Continental |
| 4 I know over the years I've done a number of them. | 0:31:45 | 4 Africa and the security issues that arise for many of |
| 5 I just can't tell you how many or -- or guess | | 5 those countries and how they deal with those issues. |
| 6 at what the percentage might be. | | 0:35:28 |
| 7 Q. Mm-hmm. And a majority of your cases -- have | | 6 Q. And how does Continental Africa relate to |
| 8 they involved alcohol in some form or manner? Or other | | 7 this case? |
| 9 illegal substances. | 0:32:10 | 8 A. It doesn't. You -- your -- I -- I understood |
| 10 A. Again, I -- I don't know. I just haven't | | 9 your question to be have I made any presentations. |
| 11 looked to see what that statistic would be. | 0:32:22 | 0:35:39 |
| 12 Q. Mm-hmm. Have you ever taught any classes? | | 10 Q. Okay. So that presentation in no way relates |
| 13 Do you teach any classes currently related to premises | | 11 to this case. Is that fair? |
| 14 security or security? | 0:32:36 | 12 A. That's fair. |
| 15 A. No. And -- and you're saying -- well, I | | 0:35:47 |
| 16 assume you're saying -- | | 13 Q. Other lectures, presentations in the last |
| 17 Q. Are you a teacher, professor, anything like | | 14 five years? |
| 18 -- | 0:32:43 | 15 A. No. Not that I can think of. |
| 19 A. Not -- | | 0:35:54 |
| 20 Q. -- that? | | 16 Q. Have you written any subject matter -- any |
| 21 A. -- currently. | | 17 treatises, books, anything on subjects that you believe |
| 22 Q. When was the last time you taught? | 0:32:48 | 18 are related to this case? |
| 23 A. Several years ago. | | 19 A. No. |
| 24 Q. Would any of your teachings relate to the | | 0:36:05 |
| 25 type of factual circumstances that are in this case? | 0:33:02 | 20 Q. I know you have a case list here in -- in |
| | | 21 Exhibit 1 at the end. And you can -- I'll give you the |
| | | 22 page number. |
| | | 0:36:23 |
| | | 23 That is page 27 of 28, so it's the last two |
| | | 24 pages. Do you see that? |
| | | 25 MR. MULDOON: Of Exhibit 1? |
| | | 0:36:37 |
| Page 27 | | Page 29 |
| 1 A. Well, I taught at Webster University in their | | 1 MR. SMITH: Am I in the wrong thing? |
| 2 security administration program. And as part of that, | | 2 MR. MULDOON: I see it. |
| 3 conducting risk assessments and managing corporate | | 3 BY MR. SMITH: |
| 4 security function. | 0:33:26 | 4 Q. Last two pages. |
| 5 I did that for 25 years for Webster. | | 5 A. Yes. |
| 6 Q. When did you teach? | | 0:36:45 |
| 7 A. I -- the last time I taught for them was | | 6 Q. Okay. And in that case list -- is that your |
| 8 probably four, five years ago. | 0:33:50 | 7 case list -- all your cases that you've given |
| 9 Q. Were any of the topics caught -- taught in | | 8 deposition testimony or trial testimony within the last |
| 10 that class related to similar opinions, bases that | | 9 four years? |
| 11 you're -- you're touching on in this case? | 0:34:03 | 0:36:55 |
| 12 A. Yes. In -- in terms of risk assessments and | | 10 A. Yes. |
| 13 mitigation strategies. | | 11 Q. Are there any that you left out? |
| 14 Q. And have you given any webinars, speeches, | | 12 A. No. I don't believe so. |
| 15 lectures, or anything within the last five years on any | | 0:37:02 |
| 16 topics that relate to the things that you're opining on | | 13 Q. Okay. The first case there, Michael Parker |
| 17 in this case? | 0:34:32 | 14 versus Lofton & Lofton Management. What was that case |
| 18 A. No. | | 15 about? |
| 19 Q. Have you given any lectures, presentations, | | 0:37:08 |
| 20 webinars, anything within the last five years to an | | 16 A. That case was about a restaurant employee who |
| 21 audience? | | 17 battered a customer of the restaurant. |
| 22 A. Yes. | 0:34:43 | 18 Q. Which side were you on? |
| 23 Q. When? | | 0:37:30 |
| 24 A. Three or maybe four years ago. I taught a -- | | 19 A. Plaintiff. |
| 25 or I -- I presented at Illinois State University. | 0:35:01 | 20 Q. Do you recall what kind of opinions you were |
| | | 21 giving there? |
| | | 22 A. No, I don't. |
| | | 0:37:38 |
| | | 23 Q. The second case, Sat- -- Saturnino Medrano |
| | | 24 Herrera versus Toju -- Toju Bay. |
| | | (Chime noise in background) |

| Page 30 | | Page 32 |
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| <p>1 BY MR. SMITH:</p> <p>2 Q. I'm sorry about that. What was that case? 0:37:51</p> <p>3 A. That was a case of a customer battering</p> <p>4 another customer at the restaurant.</p> <p>5 Q. What side were you on in that case?</p> <p>6 A. Defendant. 0:38:12</p> <p>7 Q. Do you recall what kind of opinions you were</p> <p>8 giving?</p> <p>9 A. No. Not at the moment. 0:38:22</p> <p>10 Q. Was alcohol involved in that?</p> <p>11 A. While they served alcohol there, I don't</p> <p>12 recall that alcohol was an issue. 0:38:32</p> <p>13 Q. Was that a nightclub or bar? Or was it a</p> <p>14 restaurant?</p> <p>15 A. Restaurant.</p> <p>16 Q. And was it a restaurant that also was a</p> <p>17 nightclub bar? 0:38:39</p> <p>18 A. They had a bar there. I -- I don't believe</p> <p>19 there was a nightclub.</p> <p>20 Q. Do you know what time of day the assault</p> <p>21 happened in that one? 0:38:49</p> <p>22 A. It was in the evening sometime. And that's</p> <p>23 as close as I can get.</p> <p>24 Q. This third case, Woodworth versus Tavco.</p> <p>25 What was the setting of that situation? 0:39:06</p> | <p>1 A. No.</p> <p>2 Q. Saturnino -- this is another Toju Bay case.</p> <p>3 I think it was the retrial. We've already discussed</p> <p>4 that. 0:40:59</p> <p>5 But did you give -- you gave trial testimony</p> <p>6 in that case. Yes?</p> <p>7 A. Yes.</p> <p>8 Q. And you'd already given deposition testimony</p> <p>9 in the case. Fair? 0:41:10</p> <p>10 A. Correct.</p> <p>11 Q. Nothing about the case substance changed,</p> <p>12 right; it was a retrial?</p> <p>13 A. I believe so. 0:41:17</p> <p>14 Q. Patricia Woods, as administrator versus</p> <p>15 Central Park Tap. And what's that case about?</p> <p>16 A. That case involved a customer of the bar and</p> <p>17 package store. The -- the offender in the case</p> <p>18 battered -- ultimately it -- it ended in the death of</p> <p>19 -- of the victim. 0:41:58</p> <p>20 Battered him outside the establishment there.</p> <p>21 Q. Okay. Was that a alcohol issue? 0:42:09</p> <p>22 A. No.</p> <p>23 Q. Which side were you testifying for?</p> <p>24 A. Defendant. 0:42:18</p> <p>25 Q. You with Burke and Burke's office on that?</p> | |
| <p>1 A. A restaurant bar.</p> <p>2 Q. And what type of incident?</p> <p>3 A. It was a disagreement between two customers.</p> <p>4 And one customer battered the other. 0:39:23</p> <p>5 Q. Okay. Do you know what time of day that</p> <p>6 occurred?</p> <p>7 A. It was in the afternoon sometime. 0:39:32</p> <p>8 Q. And was alcohol involved?</p> <p>9 A. I don't recall it being an issue. However, I</p> <p>10 would say they were served alcohol. But I -- I don't</p> <p>11 recall it as being in excess in terms of service. 0:39:54</p> <p>12 Q. Who'd you testify for in that? Or I mean who</p> <p>13 -- whose side were you on?</p> <p>14 A. Plaintiff.</p> <p>15 Q. Did you give trial testimony in that case? 0:40:04</p> <p>16 A. No.</p> <p>17 Q. Did you give trial testimony in any of the</p> <p>18 other cases that we've already discussed?</p> <p>19 A. No. 0:40:11</p> <p>20 Q. Richard Clark and Helen Pecoraro versus</p> <p>21 Village of Grayslake. What's that case about?</p> <p>22 A. That was a police pursuit case. 0:40:35</p> <p>23 Q. And which side did you testify for?</p> <p>24 A. Plaintiff.</p> <p>25 Q. Did you give trial testimony in that case? 0:40:47</p> | <p>1 Or were you -- who were you with? Who was the</p> <p>2 attorneys that hired you on the case? Who were the</p> <p>3 attorneys? 0:42:31</p> <p>4 A. Hmm.</p> <p>5 Q. Heineke and Burke?</p> <p>6 A. It doesn't -- no. No. 0:42:40</p> <p>7 Q. Okay. Did you give any trial testimony in</p> <p>8 that case?</p> <p>9 A. Yes.</p> <p>10 Q. And that rest-- that particular place was</p> <p>11 -- that was a bar. Correct? 0:43:00</p> <p>12 A. A bar and a liquor store and package store.</p> <p>13 Q. Ryan -- Ryan Lambert versus Bliss? What was</p> <p>14 that case about? 0:43:13</p> <p>15 A. That was a -- a fast food restaurant where a</p> <p>16 customer at the restaurant battered another customer in</p> <p>17 a disagreement outside in the parking lot. 0:43:44</p> <p>18 Q. Who'd you testify for?</p> <p>19 A. Plaintiff.</p> <p>20 Q. Did you give trial testimony in that case? 0:43:52</p> <p>21 A. No.</p> <p>22 Q. What were your opinions in that case? Do you</p> <p>23 remember?</p> <p>24 A. Other than to say it -- it revolved around</p> <p>25 the security issues, I don't remember exactly what the</p> | |

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| Andrew Lee Camphouse 03/15/2022 | Page 34 | Page 36 |
| 1 opinions were. No. 0:44:22 | | 1 And the plaintiff in that case was sexually |
| 2 Q. Okay. And the Kirchhoff case below that, 0:44:29 | | 2 assaulted and robbed while she was in her apartment. |
| 3 versus the Aragon? What was that about? 0:44:29 | | 3 Q. Which side did you testify for? 0:49:07 |
| 4 A. The Kirchhoff case -- involved three visitors | | 4 A. Defendant. |
| 5 or -- or customers, if you will, of the -- the Aragon | | 5 Q. And did you give trial testimony? |
| 6 Ballroom, where they got up into a space in the | | 6 A. No. 0:49:12 |
| 7 building that was just below the roof. 0:44:57 | | 7 Q. Okay. Derek Evitt? |
| 8 And the -- one of the three young men fell | | 8 A. That case was a police case involving an |
| 9 and died of his injuries, landing on some rebar. 0:45:17 | | 9 officer who was struck by a tow truck. 0:49:41 |
| 10 Q. Okay. Which side did you testify for? 0:45:17 | | 10 Q. Who'd you give testimony for? |
| 11 A. Plaintiff. | | 11 A. Defendant. |
| 12 Q. Okay. Pourghobadi versus ARC Hospitality? 0:45:28 | | 12 Q. Trial testimony? 0:49:56 |
| 13 What was that about? 0:45:28 | | 13 A. No. |
| 14 A. A guest at a hotel reported that someone | | 14 Q. Jesse Sala. |
| 15 entered her room at night and assaulted her. 0:45:55 | | 15 A. That involved a nightclub with an individual |
| 16 Q. Who'd you testify for? 0:45:55 | | 16 who had -- had left the nightclub. And it was right |
| 17 A. Plaintiff. Oh, I'm sorry. Defendant. 0:46:01 | | 17 around closing time. 0:50:23 |
| 18 Q. And did you give trial testimony? 0:46:01 | | 18 He tried to get back in, and they were |
| 19 A. No. 0:46:33 | | 19 already in the process of closing. So everyone was |
| 20 Q. The case below that, Ulisa Howell-Darby. | | 20 coming out. And he tried to batter his way back |
| 21 What was that about? | | 21 inside. 0:50:41 |
| 22 A. This was a case on a CHA property, where an | | 22 Didn't take no for an answer. And was -- was |
| 23 offender came to the property and -- and this was 2:00 | | 23 ultimately rejected. And during that process was |
| 24 in the morning, 3:00 in the morning. 0:46:33 | | 24 injured. 0:50:56 |
| 25 He -- there -- there was a -- a gathering of | | 25 Q. Who'd you testify for? |
| Page 35 | | Page 37 |
| 1 people, some of whom didn't belong there. And -- and | | 1 A. Defendant. |
| 2 they got into a disagreement with the security company | | 2 Q. Did you give trial testimony? 0:51:01 |
| 3 that was handling security for the location. 0:46:55 | | 3 A. No. |
| 4 And the deceased shot two of the guards and | | 4 Q. Was that case resolved? |
| 5 was himself shot in the return fire, and he died in the | | 5 A. Yes. |
| 6 process. And that was the long and the short of it. 0:47:21 | | 6 Q. Tracy Scott-Blake. 0:51:09 |
| 7 Q. Who'd you testify for? Which side? | | 7 A. That involved a nightclub where three women |
| 8 A. Defendant. | | 8 that were visiting Chicago went to the nightclub and |
| 9 Q. And did you give trial testimony in that | | 9 were attacked by an individual at the club, both inside |
| 10 case? 0:47:31 | | 10 and outside. 0:51:37 |
| 11 A. Yes. | | 11 Q. Who'd you testify for? What side? |
| 12 Q. Lisa Marie Babich. What's that case about? | | 12 A. The plaintiff. |
| 13 A. A hotel case where an employee | | 13 Q. Did you give trial testimony in the case? 0:51:47 |
| 14 surreptitiously brought his girlfriend into the hotel | | 14 A. No. |
| 15 and -- when he was off duty. And he battered her while | | 15 Q. Did your opinions in that case relate to |
| 16 they were in the hotel. 0:48:04 | | 16 security? |
| 17 Q. Who'd you testify for? | | 17 A. Yes. 0:51:57 |
| 18 A. Defendant. | | 18 Q. Did you indicate in a lot of your nightclub |
| 19 Q. And did you give trial testimony in that | | 19 cases that security is -- is -- is even more required |
| 20 case? 0:48:23 | | 20 in locations that have -- that serve alcohol and have |
| 21 A. No. | | 21 dancing? 0:52:10 |
| 22 Q. Jane Doe versus Joel Berman. What's that? | | 22 MR. MULDOON: I'll object to the vagueness of |
| 23 A. That was a real estate issue where Defendants | | 23 the question. |
| 24 rented out part of their house, the upstairs of -- of | | 24 BY MR. SMITH: |
| 25 -- of the house. It was a two-flat basically. 0:48:48 | | 25 Q. Are there heightened -- 0:52:19 |

| Page 38 | | Page 40 |
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| 1 A. I'm -- | | 1 that case? I'm assuming it related in some way that |
| 2 Q. -- security measures for restaurant -- or | | 2 the -- the bar was not at fault for the -- the |
| 3 excuse me -- for places -- establishments that have | | 3 shooting. 0:56:02 |
| 4 alcohol and dancing mixed together? 0:52:29 | | 4 Is that fair? |
| 5 A. Well, it's -- it's a little bit different. A | | 5 A. Yes. |
| 6 consideration, I suppose. But it's not -- yeah, again, | | 6 Q. And the bar did not have reasonable |
| 7 I can't -- I -- I -- you know, I can't think of how | | 7 foreseeability to prevent that shooting. Is that fair? 0:56:09 |
| 8 many places that I've been involved with that had | | 8 A. Yes. |
| 9 dancing. 0:52:53 | | 9 Q. And you would've given that opinion in that |
| 10 Q. What about games? Do alcohol and games cause | | 10 case because the bar was defending the case and if they |
| 11 heightened issues? | | 11 didn't have reasonable foreseeability of the shooting |
| 12 A. Sometimes. Yes. 0:53:01 | | 12 or the attack, then they had no liability. Fair? 0:56:23 |
| 13 Q. Why? | | 13 A. Yes. |
| 14 A. Well, it's a competitive atmosphere. And, | | 14 Q. Okay. Did you give any trial testimony in |
| 15 you know, whether it's a -- a pool game or darts or | | 15 that case? |
| 16 whatever, there's -- there tends to be the competitive | | 16 A. No. 0:56:32 |
| 17 atmosphere and sometimes emotions run high over the | | 17 Q. Barriga. What's that case about? |
| 18 results of the game. 0:53:26 | | 18 A. That was a -- a bar restaurant case where a |
| 19 Q. All right. The Moody case? What was that | | 19 customer was attacked in the parking lot of the |
| 20 about? | | 20 establishment after closing hours by a security person. 0:57:10 |
| 21 A. That's a -- an apartment complex. The -- | | 21 Q. Okay. Who'd you testify for? |
| 22 think back to this one. 0:53:47 | | 22 A. Defendant. |
| 23 The plaintiff -- plaintiff was attacked by an | | 23 Q. And did you give trial testimony? 0:57:20 |
| 24 individual who was not supposed to be on the property. | | 24 A. No. |
| 25 Q. Okay. And who'd you testify for? 0:54:16 | | 25 Q. And I'm assuming in that case -- that's |
| Page 39 | | Page 41 |
| 1 A. Defendant. | | 1 another case where you would've had some opinion that |
| 2 Q. Did you give trial testimony? | | 2 the bar restaurant could not reasonably foresee that |
| 3 A. No. | | 3 attack or incident or shooting. Is that fair? 0:57:37 |
| 4 Q. In -- in all your cases that you've -- | | 4 A. No. |
| 5 litigation you've testified for, have you ever been | | 5 Q. What was your opinion? |
| 6 disallowed from testifying by a court? 0:54:27 | | 6 A. My opinion was that -- |
| 7 A. No. | | 7 MR. MULDOON: I'm sorry. Which case are we |
| 8 Q. Have your opinions ever been barred in any | | 8 talking about? 0:57:46 |
| 9 proceeding that you've ever testified in? | | 9 MR. SMITH: Excuse me? |
| 10 A. No. 0:54:33 | | 10 MR. MULDOON: Which case are we talking |
| 11 Q. Whether by your fault or anyone else's. | | 11 about? |
| 12 A. No. | | 12 MR. SMITH: This is -- 0:57:49 |
| 13 Q. Okay. The Deist case, versus TRKYMICK. | | 13 THE WITNESS: Gastelum. |
| 14 What's that case about? 0:54:49 | | 14 MR. SMITH: -- Barriga. |
| 15 A. That was a shooting at -- at a -- a bar. The | | 15 MR. MULDOON: No -- |
| 16 bar had video poker machines in the bar. | | 16 THE WITNESS: No -- |
| 17 Q. Did you equate that as to -- was there an | | 17 MR. MULDOON: -- you were -- 0:57:53 |
| 18 issue involving the video poker machines in the | | 18 THE WITNESS: -- you're -- you're asking me |
| 19 shooting? 0:55:31 | | 19 about Gastelum. |
| 20 A. Well, that was where it happened, inside the | | 20 BY MR. SMITH: |
| 21 establishment. But it -- it didn't -- it didn't cause | | 21 Q. Am I? |
| 22 the -- the shooting. 0:55:39 | | 22 A. Yeah. 0:57:59 |
| 23 Q. Okay. Who'd you testify for? | | 23 Q. Okay. All right. So that was the |
| 24 A. Defendant. | | 24 establishment shooting? There was a shooting at that |
| 25 Q. And what type of opinions did you give in | | 25 establishment? 0:58:05 |

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| <p style="text-align: right;">Page 42</p> <p>1 A. No. No. The victim wasn't shot. 2 Q. Attacked? 3 A. He was attacked and beaten. 0:58:11 4 Q. And that was a bar location? 5 A. Yeah. A bar restaurant. Primarily -- 6 Q. And -- 7 A. -- a restaurant. 0:58:16 8 Q. And I'm assu- -- you were for defense? 9 A. Correct. 10 Q. And you would've had some opinion that the 11 restaurant was not liable in that case for the attack. 12 Fair? 0:58:26 13 A. Yes. 14 Q. And part of that opinion would've related to 15 reasonable foreseeability of the -- the restaurant bar 16 as to the -- the attack -- 0:58:35 17 A. No. 18 Q. -- fair? What -- what would the opinions 19 have related to in that case? 20 A. Related to the security contractor and its 21 employees. 0:58:43 22 Q. So you blamed it on the security contractor 23 in that case? 24 A. Yes. 25 Q. Why?</p> | <p>1 A. Yes. The bar -- the restaurant was sued. 2 Q. And as a part of that, you said there was 3 never an attack -- I -- my -- my guess is your opinion 4 went something like this, and tell me if I'm inaccurate 5 or accurate. 1:00:43 6 The restaurant had no reasonable 7 foreseeability of this attack due to the fact that this 8 type of attack had never been expected and the -- it 9 never happened in the past and that security guard had 10 never behaved in that manner to alert the restaurant to 11 the fact that this would occur. 1:01:01 12 Is that a good -- 13 A. No, not entirely. It's -- 14 Q. Well, the -- 1:01:05 15 A. -- is it -- the security guard clearly held a 16 grudge against that particular customer. And the 17 security guard was part of the company that provided 18 security for the restaurant. 1:01:28 19 The restaurant had done everything 20 appropriately, and no, they could not foresee that this 21 accusation had been made and that there was a -- a -- 22 grudge issue between the two men. 1:01:45 23 Q. Did you consider that incident a pre-planned 24 attack by the security guard? 25 A. No. It was clearly an opportunity. One of</p> |
| <p style="text-align: right;">Page 43</p> <p>1 A. Because he did it. 0:58:54 2 Q. Okay. Did you also say it was -- that the -- 3 the restaurant bar had no foreseeability of him doing 4 that? 5 A. Yes. 0:59:05 6 Q. And you would've had those opinions in the 7 case that the restaurant bar has no reasonable 8 foreseeability under the circumstances to prevent the 9 security guard from attacking this individual inside 10 the bar. Fair? 0:59:20 11 A. Yes. 12 Q. Okay. And you would've done that because you 13 were defending the restaurant bar and reasonable fore- 14 -- reasonable foreseeability is the standard related to 15 liability in those types of cases. Fair? 0:59:34 16 A. No. My opinions related to the relationship 17 between the security guard who was the offender in this 18 case and the victim. 0:59:49 19 Apparently the victim had been accused of 20 raping the girlfriend of the security guard. And the 21 security guard found the victim at the -- the 22 restaurant after closing hours and attacked him there. 1:00:19 23 Q. Okay. But you would've had some opinion 24 related to reasonable foreseeability in that case 25 because the bar was sued. Right? 1:00:29</p> | <p>1 the issues that was never resolved was what the 2 customer was doing, where he actually parked on that 3 property and why after closing. 1:02:12 4 And the security guard being part of the 5 company that provided security -- he was a supervisor 6 and he was making visits to various and sundry accounts 7 that they held -- 1:02:31 8 Q. Mm-hmm. 9 A. -- to make sure that everybody showed up, 10 etc., etc. And when he saw a car parked in a remote 11 area of this parking lot after closing hours, he went 12 over to check on that car, found someone sitting inside 13 the car, and then recognized him to be the individual 14 who supposedly raped his girlfriend. 1:02:55 15 And that's when the battery took place. 16 Q. Okay. John Doe versus Capital Fitness. 17 What's that case about? 1:03:05 18 A. That case is a -- a case of -- of an 19 individual member of the fitness center who claimed 20 that he was sexually assaulted in the showers at the 21 fitness center. 1:03:31 22 Q. Okay. Who'd you testify for in that case? 23 A. Defendant. 1:03:37 24 Q. Trial testimony? 25 A. No.</p> |

12 (Pages 42 to 45)

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| <p style="text-align: center;">Page 46</p> <p>1 Q. The last case. Price. What's that about? 1:03:47 2 A. That's a -- a restaurant case where an 3 individual employee murdered his supervisor on the 4 night shift. 5 Q. Okay. And what side were you on? 1:04:10 6 A. Plaintiff. 7 Q. And did you give trial testimony? 8 A. No. 9 Q. In that case, how did the case resolve? 1:04:20 10 A. It did not. 11 Q. Was it thrown out on summary judgment? 12 A. No. It's still active. 1:04:29 13 Q. Still active? Who -- who are the attorneys 14 that hired you in that case? 15 A. I'm -- I -- I don't -- I don't recall off the 16 top of my head. 1:04:47 17 Q. And is there a trial set -- date set? 18 A. No. Not that I'm aware of at least. 1:04:52 19 Q. Okay. When was the case filed? 20 A. When was it filed? 21 MR. MULDOON: There's a -- 1:05:00 22 THE WITNESS: Just by looking at the -- 23 BY MR. SMITH: 24 Q. January. 2018? 25 A. -- citation here, it was sometime in '18.</p> | <p style="text-align: center;">Page 48</p> <p>1 A. I do. 2 Q. I want to talk a little bit about some of the 3 documents you looked at in this case. And we'll get to 4 that in a second. 1:06:31 5 But first I wanted to talk about your fees in 6 this case. I understand from what's been marked in 7 front of you as Exhibit 2, that's your response to my 8 rider request for documents and materials from your 9 expert file? 1:06:46 10 A. Yes. 11 Q. Is there anything I'm missing from the expert 12 file besides the documents I have? 13 A. No. 1:06:51 14 Q. What about, do you highlight deposition 15 transcripts at all? 16 A. No. 17 Q. Do you take any notes on any deposition 18 transcripts? 1:06:58 19 A. No. 20 Q. Do you have any handwritten notes from 21 reading those deposition transcripts? 22 A. No. 1:07:03 23 Q. How do you keep track of that? 24 A. I work on the screen, the computer screen, 25 and write my opinions as I go along with the deposition</p> |
| <p style="text-align: center;">Page 47</p> <p>1 Yeah. 1:05:09 2 Q. And are your opinion -- do your opinions in 3 that case relate to reasonable foreseeability? 4 A. Yes. 1:05:18 5 Q. And why -- why did you have a -- those types 6 of opinions in that case? 7 A. Well, because they hired the employee without 8 doing a background check. 1:05:27 9 And then because of -- or -- or during the 10 time of his employment, it was apparent that there was 11 some discontent on behalf of the employee and he 12 ultimately stabbed his supervisor to death. 1:05:58 13 Q. Okay. All right. You can set that exhibit 14 aside. I am going to mark this as Exhibit 2. 1:06:07 15 I'm going to take a quick bathroom break for 16 the convenience of all of us. 17 A. All right. 18 THE RECORDER: Okay. Going off record at 19 2:11 p.m. 1:06:13 20 (Off the record) 21 THE RECORDER: Back on record at 2:18 p.m. 22 (Exhibit No. 2 marked for identification.) 23 BY MR. SMITH: 24 Q. All right. We're back on the record. Do you 25 understand you're still under oath? 1:06:22</p> | <p style="text-align: center;">Page 49</p> <p>1 material and -- and other material. 1:07:22 2 Q. Okay. So other than your report and those 3 materials that I have in that response there, is there 4 anything I'm missing? 5 A. No, I don't believe so. I think it's 6 complete. 1:07:34 7 Q. Okay. What treatises or anything else did 8 you review to form your opinions in this case? 9 A. Protection of Assets, published by ASIS 10 International. And the ANSI/ASIS/RIMS risk assessment 11 standards. 1:07:56 12 Also a -- a QSR web publication regarding 13 security at QSR facilities. 14 Q. Is that all of it? 1:08:23 15 A. Yes. 16 Q. Okay. We'll talk about that in a little bit. 17 Anything else? 18 A. No. Not that I can recall. 1:08:33 19 Q. Okay. And you reviewed the surveillance 20 video footage? 21 A. Yes. 1:08:40 22 Q. Okay. I want to talk a little bit about your 23 background and experience. 24 What is your percentage of testimony for 25 plaintiffs versus defendants? 1:08:48</p> |

13 (Pages 46 to 49)

(773) 239-6008

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| <p style="text-align: right;">Page 50</p> <p>1 A. Overall, I would say it fluctuates between 45 2 percent one way or another. It really depends on the 3 year. 1:09:08 4 Some years I found that I get more calls on 5 defense cases and other times I get more calls on 6 plaintiff cases. 7 Q. And you're still charging -- it looks like in 8 these materials you gave to me, you're still charging 9 295 standard per hour? 1:09:23 10 A. Yes. 11 Q. 395 for court and trial testimony and 12 depositions? 13 A. Deposition and trial. Yes. 1:09:31 14 Q. How much in hours have you put into this case 15 so far? 16 A. I don't know. 17 Q. Well, how do you get paid? 1:09:40 18 A. I -- I -- I haven't -- I -- I haven't made an 19 invoice. I -- I have to go back to look through the 20 times that -- that I spent on the case. 1:10:01 21 Q. How many hours have you spent on this case in 22 total to today's date? 23 A. I don't have an exact figure, but I would say 24 in excess of 20 hours. 1:10:20 25 Q. More than 25 hours?</p> | <p>1 Q. -- I'm handing you. Can you tell me what 2 that is? 1:11:37 3 A. This was an affidavit. 4 Q. Okay. And it's your affidavit? 1:11:49 5 A. Yes. 6 Q. And it's your affidavit and you're attesting 7 to your percentage over the last, what, four years of 8 percentages of litigation versus consulting expert 9 work? 1:12:02 10 MR. MULDOON: Objection. It's five years. 11 MR. SMITH: Five years? Excuse me. 1:12:05 12 THE WITNESS: Yes. 13 BY MR. SMITH: 14 Q. And is that fair and accurate and truthful as 15 to your testimony? 1:12:13 16 A. Yes. 17 Q. Percentages? Do you earn all of your income 18 and living from consulting and litigation expert work? 1:12:20 19 A. Yes. 20 Q. Is there any other income that you receive 21 besides that type of work? 22 A. No. 1:12:28 23 Q. As far as litigation work, how much do you 24 make per year? 25 A. It depends on the year. Um -- 1:12:44</p> |
| <p style="text-align: right;">Page 51</p> <p>1 A. Possibly. Yes. 2 Q. Less than 30 hours? 1:10:28 3 A. Perhaps. I'm not sure. 4 Q. All at the standard or? 5 A. Yes. 1:10:40 6 Q. And you've gotten a \$3,000 retainer in this 7 case? 8 A. Yes. 9 Q. Would you say that's expended now? 1:10:46 10 A. Yes. 11 Q. Will you be generating a -- a bill shortly 12 after this? 13 A. Yes. 14 Q. And you're portal -- portal to portal 15 billing, meaning you -- 1:11:03 16 A. Yes. 17 Q. -- leave your home? You bill until you get 18 back home? 19 A. Yes. 1:11:07 20 Q. And I know you gave me some materials. I've 21 marked them as -- an affidavit as Exhibit 3 here. 1:11:24 22 (Exhibit No. 3 marked for identification.) 23 BY MR. SMITH: 24 Q. It's Exhibit 3 -- 25 A. Thank you.</p> | <p>1 MR. MULDOON: Well, I'm -- I'm going to 2 object to this. You're -- you're -- you're entitled to 3 either -- to know the percentage or the total, and he 4 gave you the percentage, so you're not entitled to the 5 total. 1:12:52 6 MR. SMITH: I'm not asking for his total 7 income. I'm asking for his total percentage income as 8 a -- an expert in litigation per year. 1:13:02 9 MR. MULDOON: I'm -- I'm -- maybe I'm missing 10 something. I'm sorry. 11 MR. SMITH: So -- 12 MR. MULDOON: Percentage. He's given you the 13 percentage. 1:13:09 14 BY MR. SMITH: 15 Q. Well, how much do you make -- how much in 20- 16 -- 2021 and 2020 have you made for litigation work each 17 year -- 18 MR. MULDOON: Well -- 19 BY MR. SMITH: 20 Q. -- individually? 21 (Certified Question) 22 MR. MULDOON: -- I'll -- I'll -- that's what 23 I'm objecting to, Brad. What -- you already know the 24 percentage. Now you're going to find out the total 25 amount. 1:13:26</p> |

14 (Pages 50 to 53)

(773) 239-6008

| Page 54 | | Page 56 | |
|---------|--|---------|---|
| 1 | And you can figure out the total. That's not | 1 | details in terms of the caption. 1:15:42 |
| 2 | -- you're not entitled to that. Right? I mean, you | 2 | But USRA was I think the defendant in the |
| 3 | made your choice. 1:13:31 | 3 | case. |
| 4 | MR. SMITH: No, I don't think so. I think | 4 | Q. What court was that filed in? What venue? 1:15:56 |
| 5 | I'm -- | 5 | A. I believe Cook County. |
| 6 | MR. MULDOON: And -- and -- | 6 | Q. Okay. Have you had any other cases with him |
| 7 | MR. SMITH: -- still entitled to -- | 7 | or his office? |
| 8 | MR. MULDOON: -- that's what the case law | 8 | A. No. Not that I -- 1:16:11 |
| 9 | that you sent me said, that you're entitled to the | 9 | Q. Did you have any -- |
| 10 | percentage. 1:13:36 | 10 | A. -- can -- |
| 11 | MR. SMITH: I disagree. Are you instructing | 11 | Q. -- cases with -- |
| 12 | him not -- | 12 | A. -- not that I can -- |
| 13 | MR. MULDOON: Yeah, I'm -- | 13 | Q. -- him when he was at a different office? |
| 14 | MR. SMITH: -- to answer? | 14 | Mr. Muldoon? 1:16:15 |
| 15 | MR. MULDOON: -- going to instruct him not to | 15 | A. Not that I can recall. No. |
| 16 | answer. 1:13:40 | 16 | Q. Okay. Was that case -- were you on the |
| 17 | MR. SMITH: We'll certify that question. | 17 | plaintiff side in that case? 1:16:22 |
| 18 | BY MR. SMITH: | 18 | A. I believe so. |
| 19 | Q. Have you ever had a case from Mr. Muldoon's | 19 | Q. What type of case was it? |
| 20 | office -- | 20 | A. I don't recall the specifics of it, but it |
| 21 | MR. MULDOON: Just -- | 21 | involved a -- a convenience store. 1:16:37 |
| 22 | BY MR. SMITH: | 22 | Q. Okay. Did that case go to trial? |
| 23 | Q. -- before? 1:13:50 | 23 | A. No. |
| 24 | MR. MULDOON: -- just -- before we go on. | 24 | Q. Did you give a deposition? 1:16:53 |
| 25 | Just for the record. | 25 | A. I'm sorry? |
| Page 55 | | Page 57 | |
| 1 | We had a discussion about this, Mr. Smith and | 1 | Q. Did you give a deposition in that case? |
| 2 | I, on the telephone, about what financial information | 2 | A. I don't -- I -- I just don't know. I -- I -- |
| 3 | he's entitled to regarding Mr. Hauri's work. 1:14:07 | 3 | I don't recall if I did. 1:17:03 |
| 4 | And I asked him to send me any authority that | 4 | Q. Do you advertise your services? |
| 5 | he had regarding what we're required to disclose in | 5 | A. Occasionally. |
| 6 | terms of financial information. 1:14:24 | 6 | Q. In what types of ways? 1:17:13 |
| 7 | And Mr. Smith sent me a case from Florida, | 7 | A. In a -- a listing with ALM Media. They -- |
| 8 | and we agreed that we would provide the information in | 8 | they're publishers of a number of law journals. And |
| 9 | the manner of the -- the percentage of work Mr. Hauri | 9 | I've advertised with them in the past. 1:17:33 |
| 10 | does as a security consultant versus the percentage of | 10 | Q. Do you advertise with anyone else? |
| 11 | work he does as a litigation -- in -- in litigation | 11 | A. No. Not -- not that I can recall. 1:17:47 |
| 12 | consulting. 1:14:50 | 12 | Q. Okay. Do you go to any association events? |
| 13 | And we gave him that information in the form | 13 | ITLA? Anything of that nature? 1:17:55 |
| 14 | of affidavit as agreed upon for five years. | 14 | A. Oh, legal associations? No. |
| 15 | Okay. Let's go ahead. 1:14:57 | 15 | Q. Okay. You work -- what company do you |
| 16 | BY MR. SMITH: | 16 | currently work for? 1:18:01 |
| 17 | Q. Have you ever worked on a case or consulting | 17 | A. Bradford Garrett Group. |
| 18 | work with Mr. Muldoon's firm before or Mr. Muldoon? | 18 | Q. Are you a partner there? |
| 19 | A. Yes. 1:15:09 | 19 | A. No. I'm the managing director. 1:18:07 |
| 20 | Q. When was your last case with Mr. Muldoon's | 20 | Q. Okay. So it's your company? |
| 21 | office? | 21 | A. No. |
| 22 | A. I would say five years perhaps. 1:15:20 | 22 | Q. Okay. But you -- you're the managing |
| 23 | Q. What was the title of that case? | 23 | director for the -- for the whole company or for -- 1:18:15 |
| 24 | A. I don't recall the complete title, but the -- | 24 | A. Yes. |
| 25 | and -- and I don't -- I can't recall any of the -- the | 25 | Q. -- this region or what? |

15 (Pages 54 to 57)

(773) 239-6008

| Page 58 | | Page 60 | |
|--|---------|--|---------|
| 1 A. For the company. | | 1 A. Oh. No. | |
| 2 Q. Okay. And what type of certifications do you | 1:18:27 | 2 Q. Okay. All right. One second. I'm sorry. | 1:21:21 |
| 3 currently hold? | | 3 On this Exhibit -- what's been marked as | |
| 4 A. I hold the CPP, certified protection | | 4 Exhibit 2, the third page. It has a list of all the | |
| 5 professional, certification with ASIS International. I | | 5 things that you reviewed in preparation of your | |
| 6 held the certified fraud examiner certification with | | 6 opinions in this case. | 1:21:38 |
| 7 the Association of Certified Fraud Examiners. | 1:18:57 | 7 Do you see that? | |
| 8 And I'd have to look at my -- my CV. Bear | | 8 A. Yes. | |
| 9 with me here, please. The certified business | | 9 Q. Is there anything else that -- that you've | 1:21:48 |
| 10 continuity planner I held in 1994 for I want to say | | 10 reviewed that's not listed on there? | |
| 11 about ten years. | 1:19:41 | 11 A. I don't think so. | |
| 12 Q. Okay. The CPP. Did you have to take an exam | | 12 Q. Is there anything that you would've liked to | 1:21:56 |
| 13 to belong to that organization? | | 13 have seen that you do not see in this case? | |
| 14 A. Yes. No, not to belong to the organization, | | 14 A. When -- when -- when you say like to see in | |
| 15 but to get the certification. | 1:20:02 | 15 -- in -- in the case, aside -- is this aside from | |
| 16 Q. How long was the exam? | | 16 anything that might be available? I'm -- | 1:22:26 |
| 17 A. One day. | | 17 Q. Yeah -- | |
| 18 Q. Okay. Have you had to repeat that exam at | | 18 A. -- trying to understand -- | |
| 19 all? | 1:20:08 | 19 Q. -- I would -- | |
| 20 A. No. But I have to certify continuing | | 20 A. -- your question. | |
| 21 education on a -- a three-year basis. | | 21 Q. -- I would just like to know anything that | |
| 22 Q. How much continuing education do you have to | | 22 you think would've been important to see that you | |
| 23 have? | 1:20:23 | 23 didn't see in this case. | 1:22:31 |
| 24 A. Do I have? | | 24 A. Well, CPD has a -- a -- a pod video. I | |
| 25 Q. Do you have to have in that three-year | | 25 haven't seen any of that. | |
| Page 59 | | Page 61 | |
| 1 period. | | 1 Q. Did you see any of the body camera footage? | 1:22:44 |
| 2 A. Oh. I think it's 20 hours. | 1:20:33 | 2 A. No. | |
| 3 Q. CFE you said you held. Is that -- | | 3 Q. Could that video footage potentially have the | |
| 4 A. Right. | | 4 ability to change your opinions in some way? | |
| 5 Q. You don't have that anymore? | 1:20:40 | 5 A. I -- I have no idea. | 1:22:58 |
| 6 A. No. I dropped it last year. | | 6 Q. Is it possible that that video footage, if it | |
| 7 Q. Why? | | 7 showed you something that you weren't expecting -- | |
| 8 A. I wasn't using it. | | 8 could that have the ability to change your opinions in | |
| 9 Q. And then the last one? Do you still hold | | 9 some way? | 1:23:09 |
| 10 that? | | 10 MR. MULDOON: Objection. It's asked, | |
| 11 A. No. | | 11 answered, and speculation. | |
| 12 Q. And what happened to that one? | 1:20:51 | 12 THE WITNESS: I -- | |
| 13 A. I dropped it because I wasn't using it. | | 13 MR. MULDOON: Foundation. | 1:23:14 |
| 14 Q. Okay. Any other certifications that I'm | | 14 THE WITNESS: I would have to see it in order | |
| 15 missing? | 1:21:01 | 15 to answer that question. | |
| 16 A. No. | | 16 BY MR. SMITH: | |
| 17 Q. Qualifications, training? Is there anything | | 17 Q. Okay. Anything else you'd like to see that | |
| 18 else as far as education? | | 18 you did not see in this case? | 1:23:24 |
| 19 MR. MULDOON: Other than what's -- what's -- | 1:21:10 | 19 A. Well, in terms of records, there aren't any | |
| 20 BY MR. SMITH: | | 20 records apparently in regards to the history of that | |
| 21 Q. Regarding security -- | | 21 location. | |
| 22 MR. MULDOON: -- in the CV? | | 22 Q. Well, are there not any records, or is it | |
| 23 BY MR. SMITH: | | 23 just that there is not any history? | 1:23:48 |
| 24 Q. -- yeah, other -- other than what's on the | | 24 A. Well, it's that there's not any records. | |
| 25 CV? Are we missing anything? | 1:21:13 | 25 Q. Okay. And in what way do you know that? | 1:23:55 |

| | Page 62 | Page 64 |
|----|--|---|
| 1 | A. From the depositions. | 1 Q. Okay. Is there anything else it shows? |
| 2 | Q. Do you know if there's any history? | 2 A. Well, it's -- it's a log. It's dates and |
| 3 | A. Yes, I know there's history. 1:24:05 | 3 times and the nature of the call. 1:27:02 |
| 4 | Q. How do you know there's history? | 4 Then there are any number of columns |
| 5 | A. From the depositions. And from the Chicago | 5 regarding their internal tracking mechanisms. So you |
| 6 | PD calls for service. 1:24:16 | 6 may have six to eight set of digits that refer to other |
| 7 | Q. And those calls for service and -- and | 7 documents -- 1:27:24 |
| 8 | analysis -- I didn't get any materials provided in | 8 Q. Other -- |
| 9 | those calls for service. Do -- do you know where that | 9 A. -- such as -- |
| 10 | came from? 1:24:24 | 10 Q. Go ahead. |
| 11 | A. Well, it came from CPD. I don't know how it | 11 A. Such as a police report. 1:27:27 |
| 12 | came to me, but -- other than it was provided to me as | 12 Q. Other than the date of this shooting, which |
| 13 | part of the information. 1:24:35 | 13 was December 31st of 2018, does that report show any |
| 14 | Q. Well, if I haven't seen that, is it in your | 14 other shootings at that Wendy's restaurant in the two |
| 15 | file? | 15 years prior to this shooting that we're talking about |
| 16 | A. Yes. | 16 today? 1:27:46 |
| 17 | Q. Okay. And why wasn't it produced in those | 17 A. No. |
| 18 | materials? 1:24:57 | 18 Q. Does it show any criminal predatory attempted |
| 19 | A. I don't know. I thought it was. | 19 homicide shootings? In the -- 1:28:00 |
| 20 | Q. Are you able to give that to me after the | 20 A. No. |
| 21 | deposition? 1:25:12 | 21 Q. -- two years prior to this incident? |
| 22 | A. I don't have it with me, but it can be | 22 A. No. |
| 23 | provided. | 23 Q. Does it show any combat military style |
| 24 | Q. What -- | 24 carried-out homicide attempts for that location within |
| 25 | MR. MULDOON: I think I provided it to you. 1:25:20 | 25 the two years prior to this shooting that we're talking |
| | Page 63 | Page 65 |
| 1 | MR. SMITH: Okay. | 1 about today? 1:28:23 |
| 2 | MR. MULDOON: If you look at the additional | 2 MR. MULDOON: Well, objection as to relevance |
| 3 | Rule 226 disclosures, I believe it was in there. | 3 and speculation. |
| 4 | MR. SMITH: Okay. 1:25:27 | 4 BY MR. SMITH: |
| 5 | BY MR. SMITH: | 5 Q. Go ahead. |
| 6 | Q. What does that particular report show? | 6 A. No. 1:28:30 |
| 7 | A. It shows a list of the calls over a period of | 7 Q. You reviewed the surveillance footage in |
| 8 | I believe two years -- no, three years potentially. | 8 preparation for your report. |
| 9 | Calls for service to the restaurant. 1:25:47 | 9 A. Yes. |
| 10 | Q. And what types of things did that report | 10 Q. The surveillance footage was pretty good. Or |
| 11 | reflect? | 11 at least as far as the location and the outside. 1:28:45 |
| 12 | A. Any number of -- of, well, calls for service. | 12 I mean, it showed all the events that we're |
| 13 | They show some -- what -- what would be characterized | 13 looking at here. |
| 14 | as criminal activity. 1:26:04 | 14 A. Yes. Not with great clarity, for instance, |
| 15 | So, for instance, disturbances, batteries. | 15 but yes. 1:28:58 |
| 16 | Guns. EMS calls. | 16 Q. And in that video footage -- and -- and we'll |
| 17 | Q. I'm asking what did that particular report | 17 look at it in fairness later, okay. But in that video |
| 18 | that you pulled for that area show. 1:26:26 | 18 footage, you can see an SUV stalking or at least in the |
| 19 | MR. MULDOON: That's what he's answering. | 19 back area of the restaurant in an alleyway prior to |
| 20 | BY MR. SMITH: | 20 this attack occurring. Fair? 1:29:23 |
| 21 | Q. What did it show? | 21 MR. MULDOON: Objection to the |
| 22 | A. That -- what I just said is what it shows. 1:26:33 | 22 characterization of the vehicle stalking anything or |
| 23 | Q. What area does that cover, the report? | 23 anybody. |
| 24 | A. The report targets the address of the | 24 THE WITNESS: Are -- are you referring to the |
| 25 | restaurant. Calls to that location. 1:26:43 | 25 car that drives -- if you're looking at the frame -- |

| Page 66 | | Page 68 |
|--|---------|---|
| 1 car that drives through the back of the parking lot. | 1:29:41 | 1 Do you have any disagreement with that? |
| 2 It's actually Wendy's parking lot. It comes | | 2 MR. MULDOON: Objection as to speculation, |
| 3 in from an alleyway and goes from right to left? | 1:29:48 | 3 foundation. You're asking -- |
| 4 BY MR. SMITH: | | 4 MR. SMITH: Mm-hmm. |
| 5 Q. It's an SUV-looking vehicle -- | | 5 MR. MULDOON: -- if -- if he is -- agrees |
| 6 A. No -- | | 6 with a video he hasn't seen? |
| 7 Q. -- crossover -- | 1:29:50 | 7 MR. SMITH: Mm-hmm. |
| 8 A. -- I -- I -- | | 8 THE WITNESS: I -- I can't agree or disagree. |
| 9 Q. -- SUV. | | 9 BY MR. SMITH: |
| 10 A. -- I don't remember if it was an SUV. But it | | 10 Q. Well -- |
| 11 was -- I think it was light color, whether it was light | | 11 A. I haven't -- |
| 12 gray or white, I'm not sure right now. | 1:29:59 | 12 Q. -- you've seen -- |
| 13 But yeah. I don't -- I -- I -- I don't | | 13 A. -- seen -- |
| 14 recall if it was an SUV type vehicle or not. | | 14 Q. -- the video footage in the past, haven't |
| 15 Q. Did that vehicle -- did the shooters | | 15 you? 1:31:36 |
| 16 eventually appear to get out from that vehicle at some | | 16 A. I saw the video where the vehicle comes |
| 17 point? | 1:30:15 | 17 through the parking lot of -- |
| 18 MR. MULDOON: Objection. Speculation. | | 18 Q. Don't -- |
| 19 THE WITNESS: I didn't see that because that | | 19 A. -- I -- |
| 20 wasn't footage that was provided. If it exists. | 1:30:22 | 20 Q. -- you believe that all the video footage |
| 21 BY MR. SMITH: | | 21 surrounding the outside is important? 1:31:48 |
| 22 Q. Okay. You can see that SUV hiding in the | | 22 A. Yes. |
| 23 alleyway and then crossing the back north lot of the | | 23 Q. And it shows that SUV turning north on the |
| 24 Wendy's and then pulling out onto a side street on the | | 24 side street on the east side of the building just |
| 25 east side of the Wendy's. In -- | 1:30:34 | 25 before the shooting. Yes? 1:31:57 |
| Page 67 | | Page 69 |
| 1 MR. MULDOON: Objection -- | | 1 A. Yes. Princeton Avenue. |
| 2 BY MR. SMITH: | | 2 Q. And then you see two individuals come |
| 3 Q. -- the video footage that we provided. Is -- | | 3 slightly jogging and running up to the black vehicle in |
| 4 MR. MULDOON: Objection -- | | 4 the -- on the east of the building in the drive-through |
| 5 BY MR. SMITH: | | 5 lane. 1:32:09 |
| 6 Q. -- that fair? | 1:30:37 | 6 A. Yes. |
| 7 MR. MULDOON: -- as to the characterization | | 7 Q. And then two shooters carry out a military |
| 8 of the vehicle hiding. | | 8 combat style attack on the vehicle, shooting into both |
| 9 THE WITNESS: Yeah, I don't know what you | | 9 sides of the vehicle -- 1:32:18 |
| 10 mean by hiding. The -- the -- what I saw on the video | | 10 MR. MULDOON: Objection -- |
| 11 was the vehicle drove through that parking lot. | 1:30:47 | 11 BY MR. SMITH: |
| 12 BY MR. SMITH: | | 12 Q. -- fair? |
| 13 Q. Did you see the video -- on the video clip | | 13 MR. MULDOON: -- as to the characterization |
| 14 that the -- the vehicle -- the SUV crossover, whatever | | 14 of a military type attack. 1:32:23 |
| 15 you want to call it, that vehicle that you described, | | 15 THE WITNESS: I wouldn't call it a military |
| 16 that crossed the parking lot and went out onto the east | | 16 attack. There's -- there's no basis for me to call it |
| 17 roadway and turned north -- did you see that vehicle at | | 17 that. 1:32:31 |
| 18 any point in time pull in from the west side of -- of | | 18 BY MR. SMITH: |
| 19 whatever that street is over there towards the Dan Ryan | | 19 Q. Would you call it an execution attempt? |
| 20 and then park behind a dumpster in the alleyway for a | | 20 MR. MULDOON: Objection as to |
| 21 period of time? | 1:31:14 | 21 characterization. |
| 22 A. No, I didn't. | | 22 THE WITNESS: I can't speak for their |
| 23 Q. Okay. When I show that to you in a little | | 23 motivation. 1:32:37 |
| 24 bit, and I will, in the video footage, it does pause | | 24 BY MR. SMITH: |
| 25 for a period of time. | 1:31:23 | 25 Q. Did it look like they were meant to -- to |

| Page 70 | Page 72 |
|---|---|
| <p>1 kill?</p> <p>2 MR. MULDOON: Objection as to speculation as</p> <p>3 to what the shooters were thinking. 1:32:45</p> <p>4 THE WITNESS: I -- I can't speculate on their</p> <p>5 -- on their motivation. It was -- it looked very</p> <p>6 dangerous, and they were firing into the car. 1:32:54</p> <p>7 BY MR. SMITH:</p> <p>8 Q. Would you expect that someone fires in a car</p> <p>9 has a reasonable expectation that they are -- could hit</p> <p>10 someone and kill them? 1:33:02</p> <p>11 MR. MULDOON: Objection as to, again, what</p> <p>12 the shooters are thinking.</p> <p>13 THE WITNESS: Again, motivation I don't know,</p> <p>14 but that -- that could be one of their motivations.</p> <p>15 Yes. 1:33:13</p> <p>16 BY MR. SMITH:</p> <p>17 Q. Well you were a detective, weren't you, sir?</p> <p>18 A. Yes.</p> <p>19 Q. And so you've analyzed footage and films of</p> <p>20 people carrying out targeted attacks and shootings.</p> <p>21 Correct? 1:33:22</p> <p>22 A. Yes.</p> <p>23 Q. And in your estimation, did these two</p> <p>24 individual gunmen have the intent to kill when they</p> <p>25 fired multiple, multiple gunshots into a car from</p> | <p>1 into the car, and -- and you -- you -- you don't shoot</p> <p>2 into a car for the fun of it. It's -- it's an attempt</p> <p>3 to seriously injure or kill the occupants in that car</p> <p>4 in -- 1:34:33</p> <p>5 BY MR. SMITH:</p> <p>6 Q. And --</p> <p>7 A. -- my opinion.</p> <p>8 Q. And -- and they knew -- based on your review</p> <p>9 of the video footage from that east side of the</p> <p>10 building, as those two shooters come jogging up towards</p> <p>11 that black vehicle in the drive-through lane, they're</p> <p>12 not mistaken as to what vehicle is their target based</p> <p>13 on where they go and what they do. 1:34:50</p> <p>14 Is that fair?</p> <p>15 MR. MULDOON: Objection as to what they knew</p> <p>16 and whether or not they were making a mistake. That's</p> <p>17 just pure speculation. 1:34:55</p> <p>18 THE WITNESS: Yeah, I can't say. It could've</p> <p>19 been a mistake on their part.</p> <p>20 BY MR. SMITH:</p> <p>21 Q. If it was a mistake, they definitely had some</p> <p>22 sort of colored vehicle target in mind and they went</p> <p>23 straight to that vehicle. Fair? 1:35:07</p> <p>24 MR. MULDOON: Objection as to whether or not</p> <p>25 they had -- the -- the color of the vehicle had</p> |
| <p style="text-align: center;">Page 71</p> <p>1 multiple angles? 1:33:36</p> <p>2 MR. MULDOON: Again, objection as to the</p> <p>3 shooters' intentions.</p> <p>4 THE WITNESS: Yes. It looked like they were</p> <p>5 attempting to seriously harm or kill the occupants of</p> <p>6 that vehicle. 1:33:49</p> <p>7 BY MR. SMITH:</p> <p>8 Q. Did they have -- look to have any mistake in</p> <p>9 their mind as to where they were going to be shooting</p> <p>10 at that night?</p> <p>11 MR. MULDOON: Objection as to what their</p> <p>12 intent was. 1:34:00</p> <p>13 MR. SMITH: I'm asking this expert --</p> <p>14 THE WITNESS: It --</p> <p>15 MR. SMITH: -- on his experience as a --</p> <p>16 THE WITNESS: It --</p> <p>17 MR. SMITH: -- as a policeman and as a -- 1:34:06</p> <p>18 MR. MULDOON: Well, then --</p> <p>19 MR. SMITH: -- detective --</p> <p>20 MR. MULDOON: -- why --</p> <p>21 MR. SMITH: -- in analyzing video footage of</p> <p>22 a crime.</p> <p>23 MR. MULDOON: And I'm making my objection as</p> <p>24 to your -- the characterization of your question. 1:34:12</p> <p>25 THE WITNESS: I can say they were shooting</p> | <p style="text-align: center;">Page 73</p> <p>1 anything to do with their intention.</p> <p>2 THE WITNESS: I -- I don't know. It's</p> <p>3 possible. 1:35:16</p> <p>4 BY MR. SMITH:</p> <p>5 Q. They didn't spend any time looking for which</p> <p>6 particular vehicle they were going to shoot at, did</p> <p>7 they?</p> <p>8 A. No. I don't believe they did. 1:35:29</p> <p>9 Q. They just approached the black vehicle</p> <p>10 quickly and -- and draw their weapons and began firing.</p> <p>11 A. Yes.</p> <p>12 Q. In rapid succession. 1:35:40</p> <p>13 A. Rapid succession of what?</p> <p>14 Q. The firing.</p> <p>15 A. Yes. 1:35:46</p> <p>16 Q. Both -- both individuals rapidly fired their</p> <p>17 -- their handguns, unloading multiple, multiple shots.</p> <p>18 Fair?</p> <p>19 A. Yes. 1:35:55</p> <p>20 Q. And then they retreated quickly?</p> <p>21 A. Yes.</p> <p>22 Q. Up the north street where that SUV had been</p> <p>23 seen going out of the camera footage? 1:36:05</p> <p>24 A. Yes.</p> <p>25 Q. And that's the last we see of them.</p> |

| Page 74 | Page 76 |
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| <p>1 A. Correct.</p> <p>2 Q. Do you believe that whole attack to have</p> <p>3 taken less than two minutes or more than two minutes? 1:36:19</p> <p>4 MR. MULDOON: Objection to what he believes.</p> <p>5 We can look at the videotape and see how long they</p> <p>6 take.</p> <p>7 MR. SMITH: I'm asking. He's reviewed it. 1:36:25</p> <p>8 THE WITNESS: From what point to what point?</p> <p>9 I -- I --</p> <p>10 BY MR. SMITH:</p> <p>11 Q. When --</p> <p>12 A. -- assume your end point is -- 1:36:31</p> <p>13 Q. -- the two --</p> <p>14 A. -- firing on --</p> <p>15 Q. -- individuals --</p> <p>16 A. -- the car.</p> <p>17 Q. When you can see the individuals jogging up</p> <p>18 on the camera screen on the east of the building. That</p> <p>19 time from the time they jog off and you can't see them</p> <p>20 anymore. 1:36:41</p> <p>21 A. Yes. Less than two minutes.</p> <p>22 Q. It was a quick targeted attack.</p> <p>23 MR. MULDOON: Objection as to -- 1:36:50</p> <p>24 BY MR. SMITH:</p> <p>25 Q. Yes?</p> | <p>1 knew these people or targeted these people in</p> <p>2 particular. 1:38:07</p> <p>3 But I know they attacked the car in order to</p> <p>4 create the injuries or death. And the police</p> <p>5 department could not come up with a -- a motive.</p> <p>6 For all we know, they shot up the wrong car.</p> <p>7 They could have very easily made a mistake picking that</p> <p>8 particular vehicle. 1:38:41</p> <p>9 And there's no evidence that I have seen that</p> <p>10 connects the victims to the shooters.</p> <p>11 BY MR. SMITH:</p> <p>12 Q. Based on your experience, training,</p> <p>13 education, qualifications -- by the way, any questions</p> <p>14 I asked you today -- would they be -- if -- if I'm</p> <p>15 asking for your opinion or your conclusions, would they</p> <p>16 be to a reasonable degree of professional security</p> <p>17 certainty? 1:39:06</p> <p>18 A. Yes.</p> <p>19 Q. Tell me how you reasoned professional</p> <p>20 security certainty as it relates to reasonable</p> <p>21 foreseeability.</p> <p>22 A. Can -- sorry. 1:39:17</p> <p>23 Q. Of a criminal event.</p> <p>24 MR. MULDOON: Yeah, could you repeat the</p> <p>25 question? I didn't get it.</p> |
| <p>1 MR. MULDOON: -- the term targeted.</p> <p>2 THE WITNESS: Again, I -- I can't speak for</p> <p>3 their motive or if they carried out -- if they had an</p> <p>4 order to carry out a -- an attack on that particular</p> <p>5 vehicle. 1:37:07</p> <p>6 But they -- they definitely tried to injure</p> <p>7 or kill the occupants in that vehicle.</p> <p>8 BY MR. SMITH:</p> <p>9 Q. They had a goal in mind based on what you saw</p> <p>10 from the footage. 1:37:21</p> <p>11 MR. MULDOON: Objection as to what they had</p> <p>12 in mind. It's -- it's pure speculation what they had</p> <p>13 in mind. 1:37:27</p> <p>14 THE WITNESS: Again, I -- I don't know, and</p> <p>15 the police department in its investigation couldn't</p> <p>16 come up with a motive.</p> <p>17 BY MR. SMITH:</p> <p>18 Q. Based on what you saw, do you have any</p> <p>19 reasonable belief whether or not the shooters may have</p> <p>20 or may have not known in the -- in -- prior to this</p> <p>21 incident the two individuals that were in the -- the</p> <p>22 black car that was shot -- shot? 1:37:50</p> <p>23 MR. MULDOON: Objection as to what the</p> <p>24 shooters knew. Speculation.</p> <p>25 THE WITNESS: Again, I don't know if they</p> | <p>1 THE WITNESS: Can you repeat it -- 1:39:21</p> <p>2 MR. SMITH: Can you read it back --</p> <p>3 THE WITNESS: -- please?</p> <p>4 MR. SMITH: -- please? Can you play it back? 1:39:24</p> <p>5 THE RECORDER: One moment.</p> <p>6 (Recording replayed)</p> <p>7 MR. MULDOON: Brad, can you help me --</p> <p>8 THE WITNESS: I don't -- 1:39:38</p> <p>9 MR. SMITH: Can you play it back again,</p> <p>10 please?</p> <p>11 MR. MULDOON: Well, you're just -- you're</p> <p>12 speaking too fast, Brad. Could you break it down a</p> <p>13 little bit and -- 1:39:42</p> <p>14 MR. SMITH: Just play it back one time,</p> <p>15 please.</p> <p>16 THE RECORDER: One more time? Okay. 1:39:47</p> <p>17 (Recording replayed)</p> <p>18 MR. MULDOON: I'm not even hearing all the</p> <p>19 words.</p> <p>20 MR. SMITH: Yeah, I'll -- I'll -- 1:39:58</p> <p>21 THE WITNESS: I --</p> <p>22 MR. SMITH: -- repeat it.</p> <p>23 BY MR. SMITH:</p> <p>24 Q. How do you reason as a professional security</p> <p>25 expert as to what particular events or criminal</p> |

20 (Pages 74 to 77)

(773) 239-6008

| Page 78 | | Page 80 | |
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| 1 activities are reasonably foreseeable? | 1:40:14 | 1 that would be unduly burdensome on them. | 1:44:21 |
| 2 A. Through conducting a risk assessment. | | 2 And my understanding, from what I've read | |
| 3 Q. What are required to conduct a risk | | 3 over many years, the courts agree with that. However, | |
| 4 assessment? | 1:40:27 | 4 there is the duty of care that when you know that you | |
| 5 A. Well, there are three primary elements. One | | 5 have some specific issues in terms of risk, that you | |
| 6 is location. The environment, if you will, of the | | 6 address them. | 1:44:49 |
| 7 specific facility. | 1:40:44 | 7 And if you don't address them, that's not | |
| 8 And then its history. What has happened | | 8 reasonable. | |
| 9 there in the past. And lastly, its operations. What | | 9 Q. Is reasonable foreseeability a legal -- legal | |
| 10 -- what does that facility do. | 1:41:01 | 10 standard for entities or folks to follow within a legal | |
| 11 So you collect that information and make an | | 11 setting? | 1:45:07 |
| 12 assessment as to what could happen there. | | 12 A. To my understanding, yes. | |
| 13 Q. And in this case, in the -- in the two years | | 13 Q. Okay. And that is a -- a legal conclusion | |
| 14 predating this shooting in January -- or excuse me -- | | 14 standard. Fair? | 1:45:15 |
| 15 December of 2018, there were no attempted homicide | | 15 A. I believe so. | |
| 16 military or tactical style attacks on any individuals | | 16 Q. Okay. Let me ask you this. Is there | |
| 17 at that Wendy's location -- | 1:41:53 | 17 different security assessments when a property is | |
| 18 MR. MULDOON: Objection -- | | 18 closed, like a restaurant -- when a restaurant is | |
| 19 BY MR. SMITH: | | 19 closed versus open? | 1:45:46 |
| 20 Q. -- fair? | | 20 A. I don't understand what you mean by a | |
| 21 MR. MULDOON: -- to the term military | | 21 different assessment. | |
| 22 tactical attacks. | 1:41:58 | 22 Q. I mean, say the restaurant is closed at 4 | |
| 23 THE WITNESS: Not that I'm aware of. | | 23 a.m. and this shooting occurs in the parking lot. | 1:45:59 |
| 24 BY MR. SMITH: | | 24 What's your assessment in that circumstance? | |
| 25 Q. Okay. That's important to your assessment. | | 25 MR. MULDOON: Is this a hypothetical? | |
| Page 79 | | Page 81 | |
| 1 Fair? | 1:42:07 | 1 MR. SMITH: It can be. | 1:46:07 |
| 2 A. The history is. Yes. | | 2 MR. MULDOON: Well, is it? | |
| 3 Q. And in fact, the history is the -- one of the | | 3 MR. SMITH: Yes. | |
| 4 more important factors. Fair? | 1:42:16 | 4 MR. MULDOON: Okay. And so objection, | |
| 5 A. Depends on the history, but yes. It can be | | 5 incomplete hypothetical. | 1:46:12 |
| 6 more important than something else. But you need a | | 6 But go ahead and answer. | |
| 7 complete history in order to make an accurate | | 7 THE WITNESS: So in order to answer your | |
| 8 assessment. | 1:42:38 | 8 question, I need more information. Are there people | |
| 9 Q. I want to talk to you a little bit about | | 9 around? Customers? | 1:46:21 |
| 10 reasonable foreseeability again. Is that a legal | | 10 BY MR. SMITH: | |
| 11 standard or is that a -- a professional security | | 11 Q. Sure. | |
| 12 standard? | 1:43:00 | 12 A. Employees? | |
| 13 A. Both. | | 13 Q. Well, no. No. The restaurant's closed. | 1:46:25 |
| 14 Q. And in the legal standard, what does it mean? | | 14 A. The restaurant is closed. | |
| 15 A. My understanding of it is that you take steps | | 15 Q. The parking lot is open, but there could be a | |
| 16 that are reasonable. In other words, you're -- you're | | 16 loiterer or something. But the restaurant's closed. | |
| 17 not expecting someone to create Fort Knox as a -- as a | | 17 No one's there. | 1:46:33 |
| 18 facility in the retail space. | 1:43:35 | 18 A. Okay. | |
| 19 Which is what this is. It's a quick service | | 19 Q. What is your assessment if a shooting were to | |
| 20 restaurant. And it doesn't have to be protected by the | | 20 happen at the property in that situation, similar type | |
| 21 military or a -- a lot of police officers. | 1:43:56 | 21 of shooting, assault, like we saw on this video | |
| 22 That would not -- it -- to expect that kind | | 22 footage, without anyone there? | 1:46:48 |
| 23 of -- of mitigation would -- would be unreasonable. | | 23 What is reasonable under these circumstances | |
| 24 You don't want to drive the facility out of business or | | 24 as far as security measures? | |
| 25 make it impossible for them to make a profit, because | | 25 MR. MULDOON: Objection. Again, it's an | |

| Page 82 | | Page 84 | |
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| 1 incomplete hypothetical. | 1:46:56 | 1 Q. Do you believe this particular restaurant had | |
| 2 MR. SMITH: Sure. | | 2 a properly lit parking lot? | |
| 3 THE WITNESS: Well, what you're describing | | 3 A. I don't know. 1:50:13 | |
| 4 sounds like vandalism quite frankly. You know, if -- | | 4 Q. Well, based on your security assessment in | |
| 5 if somebody comes in and fires shots in the -- in the | | 5 this case, do you have any reason to believe that the | |
| 6 parking lot when the restaurant is closed, certainly | | 6 lighting in the Wendy's parking lot either contributed | |
| 7 the risk of harm to the employees and the customers | | 7 to or caused this shooting incident? 1:50:26 | |
| 8 doesn't exist. 1:47:24 | | 8 MR. MULDOON: Okay, so are we flipping back | |
| 9 So what you would do and -- and which I think | | 9 now to this case? Because you're flipping between | |
| 10 is where you're going with the question, correct me if | | 10 hypotheticals and this case. It'd be -- it'd be good | |
| 11 I'm wrong -- but what you would do at that point is | | 11 if you could signal which one you're talking about when | |
| 12 make sure that your alarm systems work in the building, | | 12 you're asking a question. 1:50:34 | |
| 13 in the facility, and that your cameras, your | | 13 BY MR. SMITH: | |
| 14 surveillance cameras, are functional and recording the | | 14 Q. Go ahead, sir. | |
| 15 event. 1:47:54 | | 15 A. Let -- let's read the question back. | |
| 16 Clearly, without the presence of any people, | | 16 THE RECORDER: One moment. 1:50:44 | |
| 17 the risk of harm to anyone there is -- because there's | | 17 (Recording replayed) | |
| 18 no one there, the risk of harm would be lower. 1:48:09 | | 18 THE WITNESS: So the lighting in the | |
| 19 However, those rounds, when they're fired -- | | 19 restaurant -- and I -- I don't know if it was lighting | |
| 20 the question is, where do they go? And you can read | | 20 that should've been better or if it's the cameras that | |
| 21 that in a newspaper every day in the City of Chicago, | | 21 they were using in their surveillance equipment. 1:51:23 | |
| 22 how, you know, the four-year-old is sitting in her | | 22 But the -- the images are a bit grainy, and | |
| 23 bathtub, is shot in the head because somebody was | | 23 with proper lighting and cameras that can take | |
| 24 having a shooting party outside and one of the rounds | | 24 advantage of good lighting, those images could've been | |
| 25 went astray. 1:48:35 | | 25 clearer. 1:51:40 | |
| Page 83 | | Page 85 | |
| 1 So same thing at the restaurant. You could | | 1 So the -- the -- the question of the | |
| 2 certainly have those rounds go into the residential | | 2 assessment is -- goes right back to the question of the | |
| 3 units that are right behind the -- the restaurant. 1:48:51 | | 3 capability of the equipment that they're using. 1:51:55 | |
| 4 And about all you can do is make sure that | | 4 BY MR. SMITH: | |
| 5 your cameras working and that your alarm system is | | 5 Q. Okay. I guess what I'm asking you is, did | |
| 6 working. You could have security officers conducting | | 6 the lighting outside in the restaurant parking lot | |
| 7 patrols there to prevent that kind of thing or try to | | 7 cause or contribute, as you've said other things did, | |
| 8 prevent it, at least deter it. 1:49:14 | | 8 to this shooting? 1:52:06 | |
| 9 But that's about all you could do. That | | 9 A. Possibly. I would have to see the lighting | |
| 10 would be reasonable. | | 10 as it was in 2018. | |
| 11 Q. If a similar type of shooting happened with | | 11 Q. Do you -- so you have no basis ability to | |
| 12 no one working in the restaurant, no one at the | | 12 formulate an adequate support reasoned opinion on | |
| 13 restaurant, in the parking lot, like we see on the | | 13 whether the lighting caused or contributed to the | |
| 14 video footage, similar type of shooting, would you lay | | 14 shooting in -- on December 31st, 2018. Fair? 1:52:33 | |
| 15 blame at Wendy's feet for causing that issue? If the | | 15 A. Not exactly. As I said, the -- the images | |
| 16 restaurant was closed. 1:49:45 | | 16 are a bit grainy, and better lighting would increase | |
| 17 MR. MULDOON: Is this a hypothetical? | | 17 the possibility of identifying those individuals. 1:52:53 | |
| 18 MR. SMITH: Yes. | | 18 And if the lighting is up -- up to par, then | |
| 19 MR. MULDOON: And objection, incomplete | | 19 it might be a question of the cameras, the lenses that | |
| 20 hypothetical. 1:49:49 | | 20 are being used and -- and the -- the type of camera | |
| 21 THE WITNESS: I don't know, because we don't | | 21 that they're using. 1:53:10 | |
| 22 know if the alarm system was working and if the | | 22 So it's -- I -- I -- I can't say one way or | |
| 23 surveillance cameras were -- were working and if the | | 23 the other without actually seeing the lighting in that | |
| 24 parking lot was properly lighted. 1:50:06 | | 24 parking lot as it was when the shooting happened. 1:53:25 | |
| 25 BY MR. SMITH: | | 25 Q. So you don't have enough information, | |

| Page 86 | Page 88 |
|---|--|
| <p>1 evidence, support to make any opinion on whether or not 2 the lighting did or did not contribute to the shooting 3 on January -- or on December 31st, 2018. Correct? 1:53:38</p> <p>4 A. Yes. I did not make an opinion based on the 5 lighting.</p> <p>6 Q. And you don't have enough information to do 7 so. Correct? 1:53:48</p> <p>8 A. At this point, that's correct.</p> <p>9 Q. When you're doing a security assessment, risk 10 assessment for a quick serve fast food restaurant like 11 this Wendy's on Garfield in this case, versus work -- 12 versus bars and nightclubs, what are the differences to 13 you as to the those risk assessments? 1:54:14</p> <p>14 A. Well, the three -- the three elements that I 15 mentioned before are still important. And that doesn't 16 change. 1:54:29</p> <p>17 You -- you need that information for all 18 those three elements in order to facilitate a good 19 assessment. And one of the things that you look at is 20 -- is the operations, the difference, if you will, 21 between a Q- -- a QSR operation and a bar, nightclub, 22 tavern. 1:55:01</p> <p>23 The -- I think that the -- the operational 24 difference is what really needs to be addressed in 25 order to provide a good assessment. So when you add in</p> | <p>1 period of time. When you look at a bar or restaurant, 2 those customers, again generally speaking, are there to 3 go in and sit down and -- and either have a meal or 4 consume some alcoholic beverages. 1:57:48</p> <p>5 So there's a time difference where your 6 customers are -- are going to be in one of those 7 facilities for a much longer period of time. 1:57:58</p> <p>8 And then you have your transaction.</p> <p>9 Transactions in a restaurant, a plain restaurant, 10 happen at the end of the visit. 1:58:17</p> <p>11 Transactions at the QSR happens either at the 12 front counter in the dining room or at the 13 drive-through window. So that's -- that's a different 14 set of circumstances that requires paying attention to 15 the -- the mitigation strategies that you have. 1:58:48</p> <p>16 So, for instance, your drive-up window can be 17 held up. So do you -- if -- if you have a high risk 18 operation, do you get some ballistically rated glass to 19 protect your employee so that someone can't just drive 20 up and put a gun in their face and say hand over the 21 money. 1:59:22</p> <p>22 In a regular sit-down -- what I'll call a 23 sit-down restaurant, they can still be robbed. 24 However, you have a lot of people, which means a lot of 25 witnesses, sitting in that establishment. 1:59:45</p> |
| Page 87 | Page 89 |
| <p>1 something like dancing you mentioned before, when you 2 -- there's no -- there's no dancing in -- in a QSR. 1:55:37</p> <p>3 Generally speaking. The -- you don't have 4 necessarily competitive games. You don't turn the 5 lights down in the QSR. 1:55:50</p> <p>6 You want the -- the lights in the dining room 7 to be bright and -- and welcoming. So you look at 8 those differences, and -- and that assessment then as 9 to its needs changes in the procedural areas. 1:56:07</p> <p>10 So I -- those are some of the differences 11 between them. And -- and when you're not serving 12 alcohol, you're much less likely to have 13 alcohol-related problems. 1:56:29</p> <p>14 Q. Can alcohol generally cause or contribute to 15 criminal activity at a particular establishment?</p> <p>16 A. Yes. Under certain circumstances. Sure. 1:56:43</p> <p>17 Q. Do burgers and fries cause or contribute to a 18 -- a criminal activity at a certain quick serve 19 restaurant?</p> <p>20 A. Not generally. No. 1:56:53</p> <p>21 Q. Okay. Is there anything else that goes into 22 your risk assessment in a QSR versus a bar nightclub?</p> <p>23 A. Sure. So when you look at operations. 1:57:13</p> <p>24 A QSR, especially in late night operations, 25 has customers that are on-site for a relatively short</p> | <p>1 So it's less likely to have an armed robbery 2 at -- I don't know -- pick a restaurant of -- of any 3 kind, where the clients come in and sit down for a 4 meal. 2:00:04</p> <p>5 It's much less likely that an armed robbery 6 would happen there while at least the customers are 7 there. It might happen at the end of the night when 8 they're closing up, when there are no customers or 9 maybe just a few employees. 2:00:18</p> <p>10 But a QSR late night operation is vulnerable 11 to those kinds of issues all the time. Their 12 operational hours create that situation. 2:00:36</p> <p>13 And they're trying to solve for adverse 14 events by shutting down the dining room, which makes a 15 lot of sense. They close the dining room, they only 16 have the one window to make transactions through. 2:00:56</p> <p>17 And their customers are constantly driving 18 around that -- that establishment. It's in and out. 19 It's not I'll go in there and sit for an hour and a 20 half with somebody else to have a meal. 2:01:13</p> <p>21 Q. Let me ask you at this restaurant in 22 particular on Garfield. In the four years prior to 23 this shooting in December of 2018, were there any 24 holdups in the drive-through window that you're aware? 2:01:29</p> <p>25 A. No. However, it was mentioned in deposition</p> |

23 (Pages 86 to 89)

| Page 90 | | Page 92 | |
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| 1 | testimony that that was a fear on behalf of the 2 employees. 2:01:44 | 1 | get access to. 2:04:31 |
| 3 | But there's nothing on the record that I've 4 seen that indicates that. Because the employees also 5 testified that they didn't call the police when they 6 had incidents. 2:02:00 | 2 | Q. Well, we're in federal court now and not 3 state court, so I'm entitled to disclosures ahead of 4 time. So I'm asking you, are you going to opine in 5 some way that taking out the garbage somehow caused or 6 contributed to this assault -- combat style assault 7 shooting in the parking lot? 2:04:50 |
| 8 | They didn't necessarily call the police. 9 Which actually is a -- a violation of their own 10 policies and procedures. Apparently no one was -- 11 management wasn't enforcing the policies and 12 procedures. 2:02:18 | 8 | MR. MULDOON: Objection -- |
| 13 | And there's a bit of confusion when you 14 review the materials. You find their policies and 15 procedures -- on one, it says you can't go out the back door. 2:02:30 | 9 | THE WITNESS: No. |
| 16 | You -- you can't put out the trash after 6 17 p.m. And then you read another one of their documents 18 -- I think they were calling them hot sheets. 2:02:41 | 10 | MR. MULDOON: -- to the phrase combat assault 11 style shooting. 2:04:54 |
| 19 | You read another one of their documents and 20 they say you can't go out and dump the trash after 21 10:00 p.m. So which is it? 2:02:53 | 12 | THE WITNESS: No. |
| 22 | You -- you want to keep your employees inside 23 at 6 p.m. or do you want to keep them inside at 10 24 p.m.? So there's some confusion there on -- on their 25 -- on behalf of their policies and procedures. 2:03:08 | 13 | BY MR. SMITH: |
| Page 91 | | 14 | Q. Okay. What is your risk -- have we talked 15 all -- all about your risk assessment related to QRs 16 and bar -- versus bars and nightclubs? 2:05:07 |
| 1 | Q. Are you opining that the policy and procedure 2 related to taking out the garbage that might be 3 conflicting based on your testimony is a cause or a 4 contributing factor to this particular combat style 5 shooting at that Wendy's location? 2:03:25 | 17 | A. I believe so. |
| 6 | MR. MULDOON: Objection -- | 18 | Q. Is there anything else? |
| 7 | THE WITNESS: I haven't -- | 19 | A. Not that I can think of right at the moment. 2:05:14 |
| 8 | MR. MULDOON: -- to the phrase combat style 9 shooting. 2:03:28 | 20 | Q. I want to talk about parking lots versus 21 indoors. Your risk assessments in those situations. 22 How do they differ; how are they similar? 2:05:24 |
| 10 | THE WITNESS: I haven't opined that. But it 11 tells me when -- when -- when there's conflict between 12 employees in terms of things like training -- did you 13 get training? No. 2:03:44 | 23 | And let's say for restaurants in particular. |
| 14 | Did you get training? Yes. Would -- is it 6 15 p.m. or is it 10 p.m.? That tells me that management 16 is not doing a good job in managing their security 17 procedures. 2:04:03 | 24 | A. For just a restaurant? Are we talking about 25 a sit-down restaurant, a -- 2:05:35 |
| 18 | BY MR. SMITH: | | |
| 19 | Q. Are you -- do you have any experience in 20 management as a expert witness? Are you making any 21 opinions about management as an expert witness here as 22 far as conflicting policy about taking out the trash? 2:04:18 | | |
| 23 | A. I haven't opined on that in this report. | | |
| 24 | Q. Do you plan on opining on that? | | |
| 25 | A. It depends on what other information I can | | |
| Page 93 | | 1 | Q. Let's say a -- |
| | | 2 | A. -- white tablecloth restaurant? |
| | | 3 | Q. Let's say a QSR restaurant. 2:05:39 |
| | | 4 | A. Okay. So you're asking me what's the 5 difference between -- |
| | | 6 | Q. Your risk assessments for both settings. 2:05:53 |
| | | 7 | A. Okay. We're talking about a QSR restaurant. |
| | | 8 | Q. Yes. 2:05:59 |
| | | 9 | A. And both settings would be what? Indoors 10 versus outdoors? |
| | | 11 | Q. Yes. |
| | | 12 | A. So if you have a population that wants to sit 13 in their vehicle and eat their meal in the parking lot, 14 that's a whole lot different than mom and her two kids 15 in the middle of the day coming through and buying a 16 couple of Happy Meals. 2:06:31 |
| | | 17 | Because they're -- they're gone quickly. So 18 when you have people that tend to stay in the parking 19 lot, the difference would be that you want to -- 20 especially -- especially in a high risk environment, 21 you want that patrolled by security guards. 2:07:01 |
| | | 22 | Q. Can a security guard -- one security guard, 23 armed, prevent a -- a combat styled what you'd termed 24 in the past -- I'll use criminal predatory attempted 25 homicide attack? 2:07:33 |

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| <p>1 MR. MULDOON: I'll object to the phrase -- 2 object to the phrase criminal predatory homicide 3 attempt.</p> <p>4 THE WITNESS: Again, I go back to it depends 5 on their capability, the offender's capability and -- 6 and motivation. 2:07:58</p> <p>7 And I -- I will say that the presence of an 8 armed security guard patrolling in a parking lot would 9 serve as a deterrent. Criminals want to commit their 10 acts and get away. 2:08:18</p> <p>11 So when they see an armed security guard, 12 that may keep them from attempting to do what it is 13 that they came to do. Can that guard prevent it? I 14 don't know. 2:08:39</p> <p>15 It depends on how well-trained they are and 16 what the circumstances are. Certainly you don't want 17 to have a shootout at the OK Corral with people sitting 18 in their cars and -- and being put in harm's way. 2:08:57</p> <p>19 Yet a decision has to be made by that guard 20 as to what to do to stop that attempt once it starts. 21 So the major issue with the guards is deterrents. 2:09:16</p> <p>22 Wearing a uniform, having a company car there 23 that has security tag on the side of it. Those are the 24 kinds of things that will deter a -- a criminal. 2:09:31</p> <p>25 BY MR. SMITH:</p> | <p>1 confrontation, you're making decisions in literally 2 fractions of a second. And that's very difficult for 3 people who've never lived under that kind of stress or 4 operated under that kind of stress to really understand 5 it and -- and do whatever it is that they have to do. 2:11:13</p> <p>6 So you confront, you try to divert, and maybe 7 they'll run off. Or maybe they'll just start shooting 8 at you. That's part of the job. 2:11:27</p> <p>9 Q. And if a security guard, hypothetically 10 speaking, was on the west side -- or excuse me -- the 11 east side of the Wendy's at the time that this combat 12 criminal military style attack were to have occurred in 13 the drive-through that you saw in the video footage, 14 would that security guard prevent that attack? 2:11:56</p> <p>15 MR. MULDOON: Objection --</p> <p>16 BY MR. SMITH:</p> <p>17 Q. From happening.</p> <p>18 MR. MULDOON: Objection to the 19 characterization of the attack. 2:12:00</p> <p>20 THE WITNESS: Very possibly. In -- in this 21 case, what we have is a disturbance in the parking lot. 22 Prior to the shooting. 2:12:10</p> <p>23 A disturbance in the parking lot in the line 24 going to the drive-up window.</p> <p>25 Q. What was the disturbance? 2:12:20</p> |
| <p>1 Q. Let me ask you this. If you were the 2 security guard, hypothetically speaking, and the 3 criminal -- the military styled combat attack by these 4 criminal predators were to occur in the drive-through, 5 like it did on the video footage that you saw, what 6 would you do to prevent that in that circumstance? 2:09:55</p> <p>7 MR. MULDOON: Objection to the 8 characterization. Objection to the incomplete 9 hypothetical. Objection to the speculation. 2:10:03</p> <p>10 THE WITNESS: I would try to get their 11 attention and divert them from their intended target.</p> <p>12 BY MR. SMITH:</p> <p>13 Q. So you would ask them to come and shoot you? 2:10:18</p> <p>14 MR. MULDOON: Objection.</p> <p>15 BY MR. SMITH:</p> <p>16 Q. I mean, I'm -- I guess I'm not understanding. 17 You said you would try to get their attention and 18 divert them. 2:10:24</p> <p>19 A. Yeah. So you get their attention. Hey, you, 20 drop the gun. Hello? And see what happens. 2:10:34</p> <p>21 And make sure that potentially you have some 22 cover when you do that so that you don't get yourself 23 killed or injured. Those are decisions that are made 24 -- and this is something people just don't understand. 2:10:47</p> <p>25 When you get into a confrontation, a lethal</p> | <p>1 A. Cars honking, people yelling and swearing at 2 each other. Sounded -- it sounded to the employee like 3 a confrontation of some sort, a hostile confrontation 4 of some sort that was taking place. 2:12:39</p> <p>5 So that's an indicator to the guard there's a 6 problem somewhere up in the line here. I'll go check 7 it. So he comes from the east side and works his way 8 around to the drive-up lane. 2:12:57</p> <p>9 Now, because it's closed and because people 10 are only in the drive-through, they're not sitting in 11 the parking lot. If they are, the guard should already 12 be talking to them and saying what are you doing here. 2:13:15</p> <p>13 Either get in line or move along. And the 14 guard doesn't have to -- if -- if this represents the 15 restaurant footprint, the alley is back here, drive-up 16 window is over here, the guard doesn't have to walk up 17 and down here unless he's attracted by something that's 18 going on, like an argument or a confrontation. 2:13:45</p> <p>19 But the guard is going to be back here more 20 so that he can see this line all the time, and if he 21 hears what's going on, he's going to come up and he can 22 respond much more quickly than if he's standing at the 23 front corner where there's no one. 2:14:03</p> <p>24 Q. Did you ever get any indication in this case 25 about the honking or incident in the drive-through --</p> |

25 (Pages 94 to 97)

(773) 239-6008

| Page 98 | | Page 100 | |
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| 1 was that related to the shooters? | 2:14:15 | 1 deter. Whether or not that guard could ultimately | |
| 2 A. Don't know. | | 2 prevent the situation, I can't say. | 2:16:54 |
| 3 Q. How do you not know that? | | 3 But his mere presence would at least act as a | |
| 4 A. There was no explanation for it. | 2:14:20 | 4 deterrent. Whether that deterrent is strong enough or | |
| 5 Q. Were the shooters in the drive-through at any | | 5 not, I don't know. | 2:17:04 |
| 6 point in time in the video footage you saw? | | 6 BY MR. SMITH: | |
| 7 A. No. In -- in the testimony, this happened | | 7 Q. Do you believe that two Chicago police | |
| 8 several minutes before the shooting. | 2:14:33 | 8 officers or one Chicago police officer could've | 2:17:14 |
| 9 Q. And there was no indication at any point in | | 9 prevented the incident if they were in the vicinity? | |
| 10 time that there was any physical altercation or | | 10 MR. MULDOON: Objection as to relevance. | |
| 11 fighting happening outside in the drive-through prior | | 11 Objection as to speculation. Objection -- objection as | |
| 12 to this shooting. Fair? | 2:14:42 | 12 to foundation. | 2:17:24 |
| 13 A. Yes. Because they couldn't see it. They | | 13 THE WITNESS: I would say it's very possible. | |
| 14 could hear it but couldn't see it. | 2:14:50 | 14 BY MR. SMITH: | |
| 15 Q. Is there an indication at some points in time | | 15 Q. And is it also possible there could've been a | |
| 16 that there is yelling over the intercoms at -- at | | 16 shootout with these two individuals? | 2:17:33 |
| 17 drive-throughs at restaurants? | | 17 A. Yes. | |
| 18 A. Not that I recall. | 2:14:59 | 18 Q. In fact, with the way these individuals were | |
| 19 Q. Okay. If that stopped and there was no | | 19 looking to attack this black car, do you expect that | |
| 20 indication of a physical altercation or shooting or any | | 20 they would've followed the car somewhere else and | |
| 21 issues, is that something that warrants calling the | | 21 carried out their action? | 2:17:46 |
| 22 police or a security guard? | 2:15:10 | 22 MR. MULDOON: Objection as to speculation. | |
| 23 A. Calling a security guard, yes. To check on | | 23 THE WITNESS: They could have. Sure. | 2:17:51 |
| 24 it and make sure everything was okay. | | 24 BY MR. SMITH: | |
| 25 Q. If it died down and someone felt it was okay, | | 25 Q. Okay. Would you expect that given the | |
| Page 99 | | Page 101 | |
| 1 there was no screaming, honking, or anything of that | | 1 circumstances? | |
| 2 nature in the three minutes before this shooting, does | | 2 MR. MULDOON: Objection as to speculation. | 2:17:56 |
| 3 that change your opinion in any way? | 2:15:31 | 3 THE WITNESS: That they would've followed the | |
| 4 A. No. | | 4 car out? | |
| 5 Q. Why? | | 5 BY MR. SMITH: | |
| 6 A. Because they couldn't see what was going on. | | 6 Q. Just like they followed it in? | |
| 7 You don't know what's going to happen as these folks | | 7 MR. MULDOON: Objection as to the | 2:18:07 |
| 8 come around. | 2:15:43 | 8 characterization that they followed the car in. | |
| 9 So it's important that those kinds of issues | | 9 MR. SMITH: We'll see it on the video. | |
| 10 are addressed in the parking lot before they get to the | | 10 MR. MULDOON: Well, it's speculation. And | |
| 11 window. | | 11 I'll object to the characterization. | 2:18:14 |
| 12 Q. And if there was some issue in the | | 12 THE WITNESS: I really can't say. I mean, I | |
| 13 drive-through line beforehand, do you believe a | | 13 -- again, I can't put myself in their heads. | |
| 14 security guard still would've prevented this combat | | 14 BY MR. SMITH: | |
| 15 style military attack on the other side of the | | 15 Q. I want -- I want to talk to you about people | |
| 16 restaurant, on the east side of the restaurant? | 2:16:20 | 16 in a parking lot in a drive-through lane versus perhaps | |
| 17 A. Again, I -- I -- | | 17 loitering. | 2:18:28 |
| 18 MR. MULDOON: Objection. | | 18 Did you have any indication from your review | |
| 19 Let me -- | 2:16:23 | 19 of the video footage that on the night of this shooting | |
| 20 Objection to the characterization of the | | 20 that there were loiterers -- loiterers in the parking | |
| 21 attack. | | 21 lot or not? | 2:18:38 |
| 22 THE WITNESS: I'll -- I'll go back to what I | | 22 A. No, I don't. | |
| 23 said earlier about the capabilities of that guard. | | 23 Q. Do you have any opinion as to any loiterers | |
| 24 That would make the difference. | 2:16:40 | 24 being in the parking lot? | |
| 25 And the presence of the guard is there to | | 25 A. Well, earlier, prior to the shooting, there | |

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| <p style="text-align: right;">Page 102</p> <p>1 were a couple of people walking in the parking lot 2 along the line of cars. 2:18:58</p> <p>3 And at one point, as I recall, the -- one 4 individual gets out of the back seat of one of the 5 vehicles in line and greets another person walking in 6 the parking lot. 2:19:15</p> <p>7 They have a conversation. Then they both get 8 in the car. The car advances, as I recall, in the 9 parking lot, and then one person -- the -- the one 10 person who was originally walking in the parking lot 11 gets out of the car and walks away. 2:19:32</p> <p>12 So what does that represent? Could be a lot 13 of things.</p> <p>14 Q. What's your definition of loitering? 2:19:42</p> <p>15 A. Hanging around without a purpose to be there. 16 Very simple.</p> <p>17 Q. Okay. Does that usually involve someone 18 hanging around more than a certain period of time? 2:19:52</p> <p>19 A. Yes. You know, somebody that walks into the 20 parking lot and -- and looks around for a couple of 21 minutes, doesn't contact anyone, and then walks off. 2:20:10</p> <p>22 That's not loitering.</p> <p>23 Q. I seem to understand that, in your opinions, 24 you're offering opinions on deterrence versus 25 prevention. Is that a fair assessment? 2:20:20</p> | <p>1 have been to have an armed security guard there on the 2 overnight shift, patrolling the parking lot and the -- 3 well, the parking area and the -- the traffic areas for 4 the cars. 2:22:07</p> <p>5 BY MR. SMITH:</p> <p>6 Q. Do you -- 7 A. And -- 8 Q. -- think -- go ahead. Sorry. 2:22:11 9 A. Sorry. 10 Q. No, you can go ahead. 11 A. I -- I said earlier we can't guarantee 12 perfection. It's just -- you know, you -- prevention 13 is -- is a goal. 2:22:25 14 But you can't give perfection. 15 Q. Okay. Do you -- are you able within a 16 reasonable degree of certainty to opine that this 17 military style shooting could've been prevent -- or 18 would've been prevented on the night in question? 2:22:58 19 MR. MULDOON: Objection as to the 20 characterization of the attack. Speculation. 21 You can answer. 2:23:06 22 THE WITNESS: I -- I -- I -- I'm -- I'm not 23 going to refer to this as a -- a military combat style 24 tactical -- I think is another phrase that you've used 25 on this. 2:23:20</p> |
| <p style="text-align: right;">Page 103</p> <p>1 A. Deterrence is prevention. 2 Q. Okay. What other terms -- what ways is 3 prevention different from deterrence? 2:20:28 4 A. Well, you have an active person there that 5 knows how to deal with those kinds of situations. As 6 opposed to the French fry cook inside the restaurant. 2:20:46 7 Q. Is there any guaranteed way in this 8 circumstance to have prevented a -- a criminal homicide 9 attack of a military style that occurred in -- in the 10 parking lot on the night that this accident occurred? 11 Or this shooting. 2:21:06 12 MR. MULDOON: Objection as to the 13 characterization of the attack. And also speculation. 14 THE WITNESS: There are no guarantees. 2:21:14 15 BY MR. SMITH: 16 Q. Do you have any way of indicating one way or 17 the other to a reasonable degree of certainty as to 18 whether or not anything could prevent a criminal 19 military style attack like occurred on the night in 20 question here? 2:21:31 21 MR. MULDOON: Objection as to the 22 characterization of the attack and speculation. 23 THE WITNESS: The question that I'm trying to 24 answer here is what's reasonable. 2:21:49 25 And a reasonable step in this instance would</p> | <p>1 What we see on the video these folks can pick 2 up in a video game. They can pick it up in -- on a -- 3 on a YouTube channel. 2:23:34 4 They're -- they're not -- most likely, 5 they're not combat trained. 6 BY MR. SMITH: 7 Q. What term would you use then, sir? 2:23:45 8 A. An attack. 9 Q. Okay. The same question, and substitute the 10 word attack. 11 MR. MULDOON: Do you under- -- do you 12 remember his original question? 2:23:58 13 THE WITNESS: No. 14 BY MR. SMITH: 15 Q. Can you opine to a reasonable degree of 16 certainty as to whether or not this attack that 17 occurred on December 31st, 2018 at this Wendy's would 18 have been prevented? 2:24:14 19 A. I can't guarantee that it would've been 20 prevented. But I can say and opine that there was -- 21 there would -- if there would've been a guard there, it 22 would've served as a deterrent to this event. 2:24:34 23 Q. I'm asking you, though, do you have any way 24 to opine to a reasonable degree of certainty that this 25 event could've been prevented -- or I mean this -- this</p> |

27 (Pages 102 to 105)

(773) 239-6008

| Page 106 | | Page 108 | |
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| 1 shooting attack could've been prevented on the night in 2 question? 2:24:49 | | 1 A. Yes. 2 Q. Is it also guessing as to prevention 3 deterrence? 2:26:47 | |
| 3 MR. MULDOON: Objection. Asked and answered. 4 It's the exact same question he just answered. 2:24:54 | | 4 A. No. 5 Q. Okay. 6 A. No. | |
| 5 THE WITNESS: No. No one can give us that 6 guarantee. 7 BY MR. SMITH: 8 Q. Okay. I want to talk about -- 2:25:03 | | 7 Q. Why not? 2:26:55 8 A. Because you're -- with deterrence, you're 9 using evidence that it has an impact and effect on the 10 outcome. | |
| 9 MR. MULDOON: You switching gears here? 10 Because -- 11 MR. SMITH: You need a -- 12 MR. MULDOON: -- if you're done, take -- 13 MR. SMITH: -- break? 14 MR. MULDOON: -- a break? 2:25:07 15 MR. SMITH: Yeah. We can take a break. 16 MR. MULDOON: Which -- yeah, are we going to 17 go til 5? 18 MR. SMITH: Yeah. For sure. Maybe a -- 2:25:12 19 THE RECORDER: All right -- 20 MR. SMITH: -- little after. 21 THE RECORDER: -- going off record at 3:37 22 p.m. 2:25:14 23 (Off the record) 24 THE RECORDER: Back on record at 3:44 p.m. 25 BY MR. SMITH: | | 11 Q. And how do you reason in your field that 12 something is well-reasoned on a deterrence issue? 2:27:27 13 A. How do you reason that? 14 Q. Yeah. How do you get from Point A with your 15 first assessment to Point B with your bases and to 16 Point C, your actual conclusions? 2:27:41 17 How do you get there? For a deterrence issue 18 in the security field. 2:27:47 19 A. You look at what's taken place in the past in 20 -- in the issue of deterrence and -- and see what 21 evidence there is that certain actions or even 22 equipment or signage has an impact being deterred from 23 having something happen. 2:28:21 24 Q. Does a restaurant have a -- a -- a duty to 25 deter something that is not reasonably foreseeable to | |
| Page 107 | | Page 109 | |
| 1 Q. I wanted to talk to you quickly about 2 speculation in your field, Mr. Hauri. 2:25:29 3 What do you consider as speculation expert in 4 the premises liability field? Or I mean premises 5 security field. 2:25:36 6 A. I'm not sure I understand. What do I? 7 Q. There's -- there's difference in between a 8 reasoned opinion, right, and -- with bases and con -- 9 and reasoning and conclusions in your field versus one 10 that just is kind of guessing or speculating. 2:25:53 11 Is that -- is that a fair assessment? 12 A. Yes. 13 Q. What do you consider is speculation in your 14 field? Or guess -- guessing. 2:26:02 15 A. It's making a statement or coming to a 16 conclusion without any basis or evidence for that 17 conclusion. 18 Q. Is it also coming to a conclusion without 19 reasoned assessment? 2:26:31 20 Because you have to reason to that 21 conclusion. Fair? 22 A. Yes. 23 Q. Is it also guessing as to outcomes? 2:26:40 24 A. Speculation? 25 Q. Yes. | | 1 them? 2 A. If it's not reasonably foreseeable, they 3 don't plan or can't plan against it. 2:28:50 4 Q. So does a restaurant have a duty to deter 5 something that they have no reasonable foreseeability 6 of? 7 MR. MULDOON: Are you asking from a legal 8 perspective, from a -- from a security industry 9 practice standard? 2:29:07 10 What -- what standard are you asking? 11 BY MR. SMITH: 12 Q. From your standard, sir, from the security 13 industry. 2:29:13 14 A. From the security industry, I -- I -- well, I 15 think I mentioned this before. You -- you take the 16 reasonable steps to mitigate what you should know or do 17 know. 2:29:35 18 And -- and there's plenty of help to -- to 19 get that done. The -- the security solutions that are 20 put into place, as I've said before, are not going to 21 be perfect necessarily. 2:30:01 22 But we know that they have an impact on 23 criminal activity, in reducing criminal activity or out 24 and out preventing criminal activity. 25 Q. Does a restaurant have a duty to deter | |

| Page 110 | Page 112 |
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| <p>1 something that is not reasonably foreseeable to them?</p> <p>2 Yes -- 2:30:24</p> <p>3 MR. MULDOON: Objection --</p> <p>4 BY MR. SMITH:</p> <p>5 Q. -- or no?</p> <p>6 MR. MULDOON: -- asked and answered.</p> <p>7 THE WITNESS: If they don't know it -- it --</p> <p>8 reasonable foreseeability is based on what you know</p> <p>9 and/or what you should know. 2:30:46</p> <p>10 When you operate in a high rise -- a -- a</p> <p>11 high risk business, you should know what the risks are.</p> <p>12 And if you don't know, then you find out what those</p> <p>13 risks are, and you work to deter the activity, the</p> <p>14 negative activity that can come out of those risks. 2:31:15</p> <p>15 BY MR. SMITH:</p> <p>16 Q. And what I'm asking you is, based on that</p> <p>17 definition you've just -- just given me of reasonable</p> <p>18 foreseeability, does a restaurant have a duty in the</p> <p>19 law to deter something, a criminal act or some sort of</p> <p>20 act, that is not reasonably foreseeable under the law</p> <p>21 to it? 2:31:34</p> <p>22 MR. MULDOON: Well, I'm going to object.</p> <p>23 You're asking a question about what's required under</p> <p>24 the law. Because before you're asking about security</p> <p>25 standards and practices. 2:31:42</p> | <p>1 MR. MULDOON: Let -- let him -- he can ask</p> <p>2 the next question after he gives it. 2:32:50</p> <p>3 THE RECORDER: Just tell me if I need to go</p> <p>4 further back.</p> <p>5 (Recording replayed)</p> <p>6 THE RECORDER: Was that it? 2:33:29</p> <p>7 MR. MULDOON: Is there a question pending?</p> <p>8 MR. SMITH: Yes, there was.</p> <p>9 MR. MULDOON: What's the question? 2:33:35</p> <p>10 BY MR. SMITH:</p> <p>11 Q. Does a restaurant have a duty under the law</p> <p>12 to deter a criminal act or action if that criminal act</p> <p>13 or action is not reasonable foreseeable under the law</p> <p>14 to the restaurant? 2:33:47</p> <p>15 MR. MULDOON: Objection. Asked and answered</p> <p>16 again. And incomplete hypothetical.</p> <p>17 THE WITNESS: Yes. 2:33:53</p> <p>18 BY MR. SMITH:</p> <p>19 Q. A restaurant has a duty -- okay. That's</p> <p>20 fine. Okay. Sir, are there any exhibits that you plan</p> <p>21 on using at trial that were not provided in your file</p> <p>22 materials or in what you've told me about today? 2:34:15</p> <p>23 A. No.</p> <p>24 Q. Would you be using the video footage? Is</p> <p>25 that likely?</p> |
| <p>Page 111</p> <p>1 And now you're asking about -- is it Illinois</p> <p>2 law? Is it federal law? Is it another state law? 2:31:47</p> <p>3 BY MR. SMITH:</p> <p>4 Q. Illinois law, sir.</p> <p>5 A. Well, I'm not an attorney, so I can't speak</p> <p>6 to the -- the legal issue there. 2:31:56</p> <p>7 Q. Are you not allowed to opine on legal</p> <p>8 conclusions, sir?</p> <p>9 A. I've never had anyone tell me that. 2:32:03</p> <p>10 Q. Okay. Then can you tell me then? Can you</p> <p>11 answer my question?</p> <p>12 A. No. 2:32:08</p> <p>13 MR. MULDOON: He answered your question.</p> <p>14 MR. SMITH: No, he didn't.</p> <p>15 MR. MULDOON: Asked and answered. 2:32:12</p> <p>16 BY MR. SMITH:</p> <p>17 Q. Is a restaurant required under the law to</p> <p>18 deter -- to -- to do some deterrence as to a criminal</p> <p>19 activity if they have no reasonable foreseeability</p> <p>20 under the law of that particular act? 2:32:27</p> <p>21 MR. MULDOON: Same objections.</p> <p>22 BY MR. SMITH:</p> <p>23 Q. Or event.</p> <p>24 A. Can we read back my last answer, please? 2:32:39</p> <p>25 Q. Why?</p> | <p>Page 113</p> <p>1 A. It's likely. 2:34:22</p> <p>2 Q. Is there anything else you'd be using? Any</p> <p>3 schematics, demographics, anything sort of as a -- a --</p> <p>4 a -- a demonstrative aid? 2:34:30</p> <p>5 A. Possibly.</p> <p>6 Q. What would you expect to use as -- as a</p> <p>7 demonstrative aid?</p> <p>8 MR. MULDOON: Well, he said possibly. He</p> <p>9 didn't say what he expected. 2:34:42</p> <p>10 THE WITNESS: Perhaps a diagram of the</p> <p>11 placement of the facility and the adjoining streets.</p> <p>12 BY MR. SMITH:</p> <p>13 Q. Sort of like a Google map? 2:34:56</p> <p>14 A. Yes.</p> <p>15 Q. And what would that help you with in your</p> <p>16 testimony?</p> <p>17 A. Well, it would help the trier of fact see the</p> <p>18 layout. 2:35:13</p> <p>19 Q. And how would that help you explain your</p> <p>20 testimony to the trier of fact?</p> <p>21 A. By walking through what took place. 2:35:26</p> <p>22 Q. Okay. I want to show you the video footage.</p> <p>23 Okay?</p> <p>24 A. All right. 2:35:35</p> <p>25 MR. MULDOON: Are we going to identify this</p> |

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| <p>Page 114</p> <p>1 by exhibit number or? 2 MR. SMITH: This is going to be Exhibit No. 3 4. I -- 2:35:40 4 MR. MULDOON: Okay. 5 MR. SMITH: -- will put a place marker in, 6 and it will be the video footage we've used in other 7 depositions. 2:35:45 8 MR. MULDOON: Okay. 9 MR. SMITH: The short clips. 10 MR. MULDOON: Okay. And is it -- can you 11 just identify the camera? The camera and the time. So 12 -- 2:35:51 13 MR. SMITH: I can do it -- 14 MR. MULDOON: Yeah. 15 MR. SMITH: -- by sides, yeah, and the time, 16 for sure. 2:35:55 17 MR. MULDOON: All right. 18 MR. SMITH: Because I can do west side, north 19 side, east side -- 20 MR. MULDOON: Oh -- 21 MR. SMITH: -- you know. 2:35:57 22 MR. MULDOON: -- you don't have it by camera 23 number? 24 MR. SMITH: I don't know if I do or not. 25 MR. MULDOON: Oh. Okay. 2:36:00</p> | <p>1 This is the -- 2 MR. MULDOON: Okay. 3 BY MR. SMITH: 4 Q. -- well, let's start at a different one. I'm 5 sorry. 2:37:02 6 MR. MULDOON: That's Camera 13. 7 BY MR. SMITH: 8 Q. We're going to do the east side of the 9 building first. Okay? 2:37:08 10 All right. This is starting at -- this is 11 the east side camera of the building. It's starting at 12 about 3:11:33 on the -- on the timing on the video 13 footage. 2:37:23 14 Do you see that? 15 A. Yes. 16 Q. Okay. I'm going to ask you if you see a 17 vehicle coming from near the Dan Ryan into the back 18 alleyway here in a bit. 2:37:38 19 And parking behind the dumpsters. You let me 20 know when you see that. Okay? 2:37:45 21 A. All right. 22 Q. Okay. Do you see that car kind of creeping 23 in the back alleyway there? 2:38:06 24 MR. MULDOON: Objection -- 25 THE WITNESS: Yes.</p> |
| <p>Page 115</p> <p>1 MR. SMITH: Yeah, this is what I've used at 2 all the deps though, so I don't know -- 3 MR. MULDOON: Okay. 2:36:03 4 MR. SMITH: All right. Okay. 5 BY MR. SMITH: 6 Q. So I'm going to hand you -- I'm just going to 7 stick my computer in front of you right here. 2:36:17 8 A. Sure. 9 Q. Okay, one second, and I am going to stand 10 next to you. I'll try to be loud. 11 MR. SMITH: Is this all right? 2:36:31 12 THE RECORDER: It'll reach, Brad. 13 MR. SMITH: Okay. It's okay. I'll get that. 2:36:35 14 BY MR. SMITH: 15 Q. All right. I'm going to show you what's been 16 marked -- what's going to be marked with a placeholder 17 as deposition Exhibit 4. 2:36:43 18 It is select images from different sides of 19 the building, and we'll describe them as we go through 20 them. Okay? 21 A. All right. 2:36:50 22 (Exhibit No. 4 marked for identification.) 23 BY MR. SMITH: 24 Q. Okay. As we're looking at -- what's going on 25 here? 2:36:58</p> | <p>Page 117</p> <p>1 MR. MULDOON: -- to the characterization 2 creeping. 3 BY MR. SMITH: 4 Q. What was your answer, sir? 2:38:10 5 A. Yes. 6 Q. Do you see it parked behind the dumpster for 7 a period of time now? 8 A. Yes. 2:38:16 9 Q. And that started at about 3:12, maybe roughly 10 29 on the clock? Correct? 11 A. Yes. 2:38:22 12 Q. It's still sitting there? Yes? 13 A. Yes. 14 Q. Why would they -- 2:38:31 15 MR. MULDOON: Can you see it? 16 BY MR. SMITH: 17 Q. -- be sit -- now it's moving across the back 18 lot. Do you see that, at about 3:12:50 on the clock? 2:38:37 19 A. Yes. 20 Q. All right. Was that the vehicle that you 21 believe that you saw that drove across the back parking 22 lot and up the side street and parked on that side 23 street on the west side of Wendy's? 2:38:48 24 Out of sight. 25 A. I -- I would say probably yes. However, if</p> |

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| <p style="text-align: right;">Page 118</p> <p>1 we look at the next camera or the next -- 2:39:03 2 Q. The north side? 3 A. -- view of the north side, we can see if it's 4 the same that I mentioned before. 2:39:13 5 Q. Okay. Okay. We're showing you that north 6 side camera starting at about 3 -- 2:39:21 7 MR. MULDOON: This is the north side? Does 8 it say north side? 9 MR. SMITH: It doesn't. But we see the menu 10 ordering boards -- 2:39:25 11 MR. MULDOON: If you could -- 12 THE WITNESS: Okay. Order -- 13 BY MR. SMITH: 14 Q. -- DT menu board, 3950 roughly it starts, 15 this particular clip. 2:39:32 16 And is that the black car in the 17 drive-through line that was shot up later from your 18 memory of the footage? 19 A. Yeah, it appears to be similar. Yes. 2:39:43 20 Q. Okay. 21 MR. MULDOON: Are we looking for something? 2:40:02 22 MR. SMITH: If I fast forward, it may mess it 23 up. 24 MR. MULDOON: Oh. Got it. 25 MR. SMITH: It's only a couple minutes here. 2:40:09 </p> | <p>1 line get out of their cars or screaming at each other. 2 What you could view with your eyes. 2:42:22 3 A. So the -- 4 Q. SUV? 5 A. -- SUV just passed through. 6 Q. And that was 3:12:57? Yes? 2:42:34 7 A. Yes. 8 Q. Okay. And we're going to switch the east 9 side camera. Now, that's what I was asking a second 10 ago. 2:42:40 11 Can you answer my other question though, that 12 -- whether or not you've ever seen in the video 13 surveillance footage anybody in the drive-through line 14 appear to be arguing or confronting anybody else at any 15 point in time? 2:42:50 16 A. No. But the -- as I recall, the -- one of 17 the -- one of the people that was walking in the 18 parking -- or in -- yeah, in the parking lot had gotten 19 into the back seat with a -- of a car with another 20 individual. 2:43:06 21 I believe he gets out of that car then near 22 the drive-up window. 23 Q. And I guess that's not what I'm asking. I'm 24 asking you at any point in time in the video footage, 25 have you ever seen two individuals get in what you </p> |
| <p style="text-align: right;">Page 119</p> <p>1 BY MR. SMITH: 2 Q. So now the black car's pulling around the 3 drive-through at about 3:10:36, 37. Yes? 4 A. Yes. 2:40:15 5 Q. It's still in sight, but it's -- it's pulling 6 way from the menu board. Fair? 7 A. Correct. 2:40:21 8 Q. Now, keep your eyes peeled for me for that 9 SUV and just let me know when you see it. Okay? 10 A. Yes. 2:40:30 11 Q. Now the black car is totally out of view. 12 Yes? 13 A. Yes. 14 Q. At this time on this video footage so far, 15 have you seen anybody fighting, cussing, screaming at 16 anybody that you can see with your eyes? 2:41:56 17 A. No. 18 Q. Anybody get out of vehicles to -- to fight or 19 to approach each other or any sort of thing like that? 20 A. No. 2:42:06 21 Q. On any of the video surveillance footage that 22 you've reviewed in the past, have you seen that? 23 MR. MULDOON: Seen what? 2:42:16 24 BY MR. SMITH: 25 Q. Seen any individuals in the drive-through </p> | <p>1 believe to be a confrontation in the drive-through lane 2 at any point in time on the surveillance footage? 2:43:25 3 A. No. 4 Q. Okay. Sorry. One second. Okay. I'm 5 showing you now the east side camera. If it pops up 6 here for us. 2:43:40 7 Starting on about 3:11:36 on the clock. Do 8 you see that? 9 A. Yes. 10 Q. And it's the DT lane back, is what it's 11 described at on the footage, yes? 2:43:51 12 A. Yes. 13 Q. Okay. You tell me when you see the SUV 14 cross. Okay? 15 A. All right. 2:44:01 16 Q. Do we now believe that to be an SUV or some 17 crossover type of SUV? 18 A. Yes. 19 Q. Do you believe that that's the car that the 20 shooters got out of and -- and came to the Wendy's -- 2:44:12 21 MR. MULDOON: To the -- 22 BY MR. SMITH: 23 Q. -- to shoot? 24 MR. MULDOON: Objection. Speculation. 25 THE WITNESS: I believe that's what the </p> |

| | | Page 122 | Page 124 |
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| 1 | police investigation discussed. | 2:44:23 | 1 police officer. Do you believe that? 2:47:27 |
| 2 | BY MR. SMITH: | | 2 MR. MULDOON: And same objection. |
| 3 | Q. Did you see the SUV? | | 3 THE WITNESS: I haven't seen the -- -- |
| 4 | A. Yes. | | 4 the -- the police video. But I think that's definitely |
| 5 | Q. Is that the one? 2:45:00 | | 5 possible. 2:47:37 |
| 6 | A. It appears to be the same vehicle. | | 6 BY MR. SMITH: |
| 7 | Q. And it's about 3 -- coming across at about | | 7 Q. Okay. And do you believe that they were -- |
| 8 | 3:13 on the clock. Where does it go? 2:45:08 | | 8 had some intent, based on their positioning in the |
| 9 | A. North on Princeton. | | 9 alley -- they remained there for a period of time, |
| 10 | Q. Okay. And out of the -- out -- you can't see | | 10 doing something. Fair? 2:47:49 |
| 11 | it any longer in the video footage, can you? 2:45:16 | | 11 A. Yes. |
| 12 | A. No. Cannot. | | 12 Q. Do you believe that to be engaging in some |
| 13 | Q. And as these two individuals approach, | | 13 sort of stalking behavior of the black car? |
| 14 | describe for me what you're seeing. 2:45:29 | | 14 MR. MULDOON: Oh. Objection. Speculation. 2:47:58 |
| 15 | A. I see two individuals walking up through the | | 15 BY MR. SMITH: |
| 16 | parking lot from Princeton. | | 16 Q. Based on your experience, training as a |
| 17 | Q. At 3:13:40 on the clock? 2:45:48 | | 17 detective, what type of a conclusion would you reach in |
| 18 | A. Yes. Now they're in a trot. And they're | | 18 reviewing that type of footage as to that fact? 2:48:07 |
| 19 | firing on the car. Now they're running away. 2:45:59 | | 19 MR. MULDOON: Same objection. |
| 20 | Q. Where are they going? | | 20 BY MR. SMITH: |
| 21 | A. Back to -- the same direction they came from | | 21 Q. And issues. |
| 22 | over on Princeton. | | 22 A. I wouldn't go to a conclusion, because they |
| 23 | Q. And that's at about 3:14:03 on the clock | | 23 could've been sitting there loading their guns. 2:48:17 |
| 24 | they're gone. Correct? 2:46:12 | | 24 So I really don't know what they were doing |
| 25 | A. Yes. | | 25 there. And there -- and there hasn't been any -- any |
| | | Page 123 | Page 125 |
| 1 | Q. So do you believe now that the -- the actual | | 1 evidence of explaining what they were doing there. 2:48:31 |
| 2 | maneuver by these two individuals of the attack took | | 2 Q. Do you have any reason to doubt that those |
| 3 | less than a minute? | | 3 two individuals were the shooters or that those -- that |
| 4 | A. Yes. 2:46:27 | | 4 that SUV contained the two individuals that were the |
| 5 | Q. Do you believe this to be a pre-planned | | 5 shooters in this -- this circumstance? 2:48:41 |
| 6 | attack based on your expertise and review of this video | | 6 MR. MULDOON: Objection. Speculation and |
| 7 | footage? | | 7 asked and answered. He said it was possible. 2:48:47 |
| 8 | MR. MULDOON: Objection. Speculation. 2:46:34 | | 8 THE WITNESS: Again, it's -- it was possible |
| 9 | THE WITNESS: I can't tell you whether it was | | 9 that -- that those are the same two people coming out |
| 10 | pre-planned or not. | | 10 of that car. |
| 11 | BY MR. SMITH: | | 11 BY MR. SMITH: |
| 12 | Q. As a -- as an expert in your field and in | | 12 Q. And they had no intent based on -- well, I |
| 13 | being a former detective and police officer, do you | | 13 guess I'll ask it like this. 2:49:06 |
| 14 | believe that this attack by these two individuals was | | 14 They never stopped in the Wendy's parking lot |
| 15 | carried out for the purposes of killing the people in | | 15 at any point within the vicinity of the Wendy -- |
| 16 | the black car? Or the person in the black car. 2:47:03 | | 16 Wendy's parking lot. Fair? 2:49:13 |
| 17 | A. Well, seriously injuring or killing them. | | 17 A. They drove through the Wendy's parking lot. |
| 18 | Yes. | | 18 Q. They never stopped in any part of the parking |
| 19 | Q. Do you believe based on your review of the | | 19 lot on Wendy's property. Fair? 2:49:21 |
| 20 | video footage that these two individuals were in that | | 20 MR. MULDOON: Objection. |
| 21 | SUV that was in the alleyway on the north side -- north | | 21 THE WITNESS: I'm trying to think back to the |
| 22 | and east side of Wendy's? 2:47:20 | | 22 -- the trash containers there. |
| 23 | MR. MULDOON: Objection. Speculation. | | 23 BY MR. SMITH: |
| 24 | BY MR. SMITH: | | 24 Q. That was a common alleyway, though, wasn't |
| 25 | Q. And I'm asking you as a detective and a | | 25 it? 2:49:35 |

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| <p style="text-align: right;">Page 126</p> <p>1 A. Well, the alley -- the alley intersects with 2 a northbound alley. And it's at that point where that 3 property is Wendy's. That's their parking lot. 2:49:52</p> <p>4 So they entered from the alley onto their 5 parking lot, the Wendy's parking lot, and drove through 6 that.</p> <p>7 Q. But they stopped on the alleyway to do 8 whatever they were doing for that period of time that 9 they didn't move their vehicle. Fair? 2:50:08</p> <p>10 A. Correct.</p> <p>11 Q. And then they -- when they took off, they 12 drove straight across the Wendy's north parking lot 13 onto Princeton and turned north. Fair? 2:50:15</p> <p>14 A. Yes.</p> <p>15 Q. Okay. Have you ever in your -- in your past 16 history as a detective or -- or a -- an expert, have 17 you ever witnessed an attack on a vehicle similar to 18 this one? 2:50:38</p> <p>19 MR. MULDOON: Eye -- eyewitness?</p> <p>20 BY MR. SMITH:</p> <p>21 Q. Either -- either you've reviewed something 22 from it or in person saw it. Any -- any way have you 23 ever seen anything like that? 2:50:49</p> <p>24 A. I've not. I've not witnessed it personally. 25 I -- and I can't -- I can't recall a specific shooting</p> | <p>1 -- that I've seen that indicates any reason to believe 2 this was a targeted attack on the two individuals in 3 the car. 2:52:17</p> <p>4 BY MR. SMITH:</p> <p>5 Q. Do you believe, based on your experience as a 6 detective, police officer and your review of the 7 footage and your basis and all -- all the reasons that 8 you're an expert in this area or -- or -- or presented 9 as an expert in this area -- do you believe that, after 10 review of the footage, that this was a targeted attack 11 by these two individuals on the black car? 2:52:37</p> <p>12 Not the individuals but the black car.</p> <p>13 MR. MULDOON: Same objection.</p> <p>14 THE WITNESS: Well, they certainly selected 15 the black car to shoot into. It -- the reason that 16 they did this, the motivation for doing this, we can't 17 say. 2:53:00</p> <p>18 There's just no information with that at all. 19 For all we know, it could have been a gang initiation. 20 And that car just happened to be the car that they 21 picked in line. 2:53:15</p> <p>22 BY MR. SMITH:</p> <p>23 Q. And that could be a -- but that's still a 24 targeted attack if it is a gang initiation and they 25 picked that car. Fair? 2:53:22</p> |
| <p style="text-align: right;">Page 127</p> <p>1 case that was similar to this one off the top of my 2 head. It's -- 2:51:13</p> <p>3 Q. Did you find the way that these shooters 4 carried out this aggressive attack, of a military 5 style, to be extremely heinous in the way it was 6 carried out? 2:51:27</p> <p>7 MR. MULDOON: Objection as to the 8 characterization of the attack and --</p> <p>9 THE WITNESS: I would call them highly 10 motivated in their attack. 2:51:40</p> <p>11 BY MR. SMITH:</p> <p>12 Q. Okay. And would you call it a targeted style 13 attack?</p> <p>14 MR. MULDOON: Objection as to --</p> <p>15 BY MR. SMITH:</p> <p>16 Q. Based on --</p> <p>17 MR. MULDOON: -- speculation. 2:51:48</p> <p>18 BY MR. SMITH:</p> <p>19 Q. -- your -- your history as a detective and a 20 -- and a police officer, would you call that attack, 21 based on your review of the footage, a -- a targeted 22 attack? 2:51:57</p> <p>23 MR. MULDOON: Objection. Speculation.</p> <p>24 THE WITNESS: I'd be guessing. I -- I'm -- I 25 -- there is -- there is no evidence in the record that</p> | <p>1 MR. MULDOON: No -- objection. Speculation. 2 THE WITNESS: Well, it's --</p> <p>3 BY MR. SMITH:</p> <p>4 Q. I mean, that's --</p> <p>5 A. -- it --</p> <p>6 Q. -- fair and logical, right? 2:53:26</p> <p>7 A. But then -- then it would --</p> <p>8 MR. MULDOON: Same objection.</p> <p>9 THE WITNESS: Then it would fall into a crime 10 of opportunity. They could've picked a white car. Or 11 the black car. 2:53:41</p> <p>12 BY MR. SMITH:</p> <p>13 Q. But that's still a targeted attack. When 14 they make that selection --</p> <p>15 A. Well --</p> <p>16 Q. -- whether it be white or black, the car 17 color, they are targeting a particular car. 2:53:51</p> <p>18 MR. MULDOON: Well --</p> <p>19 BY MR. SMITH:</p> <p>20 Q. Fair?</p> <p>21 MR. MULDOON: -- objection to the term 22 targeted attack. I mean --</p> <p>23 THE WITNESS: I -- I'm -- I'm trying to 24 answer your question, but I'm wrestling with -- with 25 your use of the word targeted attack. 2:54:02</p> |

| Page 130 | | Page 131 | Page 132 |
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| 1 | In my mind, a targeted attack is I'm after | | 1 you do any calculation to try to come up with some |
| 2 | you and I'm going to shoot up your car. Versus a crime | | 2 percentage or -- of types of crimes or issues or -- or |
| 3 | of opportunity, where, for whatever reason, they | | 3 anything? 2:57:16 |
| 4 | decided to shoot into a car and it happened to be the | | 4 A. Well, I looked at the -- the OEMC report of |
| 5 | black car. 2:54:25 | | 5 -- of the called-for service. And I believe there were |
| 6 | BY MR. SMITH: | | 6 29 -- 2:57:31 |
| 7 | Q. Based on your experience as a detective and a | | 7 Q. I'm just asking you, sir -- we -- you already |
| 8 | police officer, would you deem it to be premeditated? | | 8 told me about the OEMC stuff. Did you do any |
| 9 | MR. MULDOON: Deem what to be premeditated? 2:54:35 | | 9 calculations of criminal statistics -- 2:57:37 |
| 10 | BY MR. SMITH: | | 10 MR. MULDOON: Like -- |
| 11 | Q. This shooting -- | | 11 BY MR. SMITH: |
| 12 | A. A -- | | 12 Q. -- for that -- |
| 13 | Q. -- this -- this attempted homicide by these | | 13 MR. MULDOON: -- mathematical calculation? |
| 14 | two individuals, these two African-American | | 14 BY MR. SMITH: |
| 15 | individuals. 2:54:40 | | 15 Q. Yeah, anything -- 2:57:40 |
| 16 | MR. MULDOON: Well, again, it's speculation. | | 16 A. No. |
| 17 | THE WITNESS: I -- you -- as -- as one of | | 17 Q. -- for that location. |
| 18 | many possibilities, sure. But there's no way to tell | | 18 A. No. |
| 19 | at this point. 2:54:50 | | 19 Q. Did you do any analysis of anything other |
| 20 | We don't have any information that -- that | | 20 than the OEMC report for that location? As far as |
| 21 | explains how that selection process was made. | | 21 looking at the criminal statistics. 2:57:49 |
| 22 | BY MR. SMITH: | | 22 A. No. |
| 23 | Q. Yet it was made. Correct? 2:55:01 | | 23 Q. Okay. I want to talk about your report. And |
| 24 | A. Yes. | | 24 you have that in front of you. That's Exhibit 1. Page |
| 25 | Q. And it was selected. Fair? 2:55:01 | | 25 9 I believe it starts on. 2:58:01 |
| Page 131 | | Page 132 | |
| 1 | A. They selected the black car. 2:55:08 | | 1 And I'm going to page 10, and I see that |
| 2 | Q. Had you ever seen in the past years at the | | 2 you've expressed an opinion on page 10, that your |
| 3 | particular restaurant on Garfield an attack similar to | | 3 report is held to a reasonable degree of professional |
| 4 | this attack based on your research in this case? 2:55:25 | | 4 certainty. 2:58:22 |
| 5 | A. I didn't do any research looking for that | | 5 What does that mean to you? That term. |
| 6 | kind of shooting incident. | | 6 A. Based on my experience and education, in |
| 7 | Q. Did you find anything in your research that | | 7 reviewing the materials, I came to these conclusions |
| 8 | happened at this restaurant that was similar to this | | 8 and opinions. 2:58:46 |
| 9 | attack in the drive-through? 2:55:47 | | 9 Q. What kind of treatises do you deem to be used |
| 10 | A. No. | | 10 by experts in your field that are just top of the line? |
| 11 | Q. Okay. I want you to get back out for me | | 11 A. Protection of assets and the standards that |
| 12 | Exhibit 1 if you can, sir. 2:56:00 | | 12 are promulgated by ASIS International. 2:59:03 |
| 13 | MR. MULDOON: I'm sorry. What, what? | | 13 Q. Is that something that experts in your field |
| 14 | MR. SMITH: Exhibit 1. | | 14 reasonably rely on in forming opinions, conclusions? |
| 15 | BY MR. SMITH: | | 15 A. Yes. |
| 16 | Q. I think it's over there -- 2:56:05 | | 16 Q. Is there anything else? Any other ones that |
| 17 | A. Exhibit 1. | | 17 you deem to be important treatises in your field? 2:59:16 |
| 18 | Q. -- Ron. Okay. I want you to turn to me, if | | 18 A. Well, there's the NFPA. |
| 19 | you can, page 9 of that, where your report starts. 2:56:21 | | 19 Q. What does that mean? |
| 20 | Before we get into that report, I -- I do | | 20 A. National Fire Protection Association. 2:59:29 |
| 21 | have two questions for you. Did you do any | | 21 Q. Anything else? |
| 22 | calculations of criminal statistics at that restaurant | | 22 A. The accident prevention treatise. |
| 23 | in your research and analysis of this case? 2:56:57 | | 23 Q. Anything else? 2:59:40 |
| 24 | A. Calculations regarding? | | 24 A. Bear with me a moment here. I'm -- |
| 25 | Q. Criminal statistics at that location. Did | | 25 Q. Sure. |

| Page 134 | | Page 135 |
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| 1 | A. -- cataloguing. Well, there are any number 2 of textbooks that discuss security practices and 3 principles. 3:00:15 | 1 Q. Okay. On page 4 of 7, you state an opinion 2 there. You state that the criminal activity that 3 resulted -- and I'm paraphrasing 3:02:59 |
| 4 | Q. Which ones do you use in your daily practice? 5 Just the ones you've discussed with me? | 4 Tell me if I'm wrong. (As read): The 5 criminal activity that resulted in the Plaintiff's 6 injuries was reasonably foreseeable to Wendy's, that 7 Wendy's failed to use reasonable care and follow the 8 applicable standards and established security practices 9 to prevent the criminal activity that resulted in 10 Plaintiff's injuries, that the burden to use reasonable 11 care and follow the applicable security standards and 12 established practices to prevent the criminal activity 13 would've been minimal for Wendy's, and that Wendy's 14 failure to use reasonable care and follow the 15 applicable security standards and established practices 16 and was a proximate cause of the injuries suffered by 17 Plaintiff. 3:03:34 |
| 6 | A. Yeah, the ones I've discussed and -- and 7 mentioned. And -- 3:00:27 | 18 Did I read that correctly? |
| 8 | Q. Okay. 3:00:27 | 19 A. Yes. |
| 9 | A. -- sometimes I look at a specific textbook or 10 publication that narrowly discusses specific practices 11 or standards. But on a very narrow basis as opposed to 12 a broad standard, if you will. 3:00:58 | 20 Q. Are those your opinions in this case? 3:03:40 |
| 13 | Q. I -- I'm just asking the treatises you use 14 day to day in your -- in your expertise to form 15 opinions, conclusions, and I've heard about certain 16 ones by name. 3:01:09 | 21 A. Yes. |
| 17 | Are there any other ones that you use? | 22 Q. As far as -- working out way down here, I 23 think you get into more detail, but the basis for the 24 opinion that the criminal activity was reasonably 25 foreseeable to Wendy's. 3:03:54 |
| 18 | A. There are, but I -- I -- I can't tell you how 19 -- how much I use them or which ones I've used 20 recently. 3:01:22 | |
| 21 | These -- the ones that I've mentioned are the 22 ones that I use most frequently. | |
| 23 | Q. And are they ones that other experts in your 24 field of expertise reasonably rely on in forming their 25 opinions, conclusions? 3:01:34 | |
| Page 135 | | Page 137 |
| 1 | A. Yes. | 1 And you use the term reasonably foreseeable 2 there. Are you using that as a legal term or are you 3 using that term from a security perspective? 3:04:03 |
| 2 | Q. Okay. I see here you -- on page 10 going to 3 11, you name all the items that you looked at in 4 reviewing your opinions. 3:01:47 | 4 A. Both, actually. I think that the reasonable 5 foreseeability is -- is demonstrated here by what 6 Wendy's was doing in terms of security and security 7 mitigation. 3:04:29 |
| 5 | I believe that matches the other part. But 6 in -- in reviewing those things, is there anything else 7 that you missed that you reviewed? 3:01:55 | 8 Q. Okay. And what do you base that opinion on? |
| 8 | A. Not that I can think of. | 9 A. The depositions. Primarily Rocco Prate. 3:04:44 |
| 9 | Q. Okay. And I see your Introduction starts on 10 page 11. And you talk about a description of the 11 shooting and other matters. 3:02:13 | 10 Q. Okay. Is there anything else? |
| 12 | Is there anything you'd like to change in -- 13 on -- on page 11 of this PDF? Or I mean of this 14 document you're looking at, Exhibit 1. 3:02:24 | 11 A. Well, in -- in some of the other deposition 12 material, talking about their procedures and the -- the 13 event as it took place. 3:05:07 |
| 15 | MR. MULDOON: What page of the report is it 16 that we're talking about? | 14 Q. Okay. Anything else? |
| 17 | MR. SMITH: This would be page -- | 15 MR. MULDOON: What's -- what's the original 16 question? 3:05:25 |
| 18 | MR. MULDOON: It's on the bottom. 3:02:28 | 17 MR. SMITH: I'm -- |
| 19 | MR. SMITH: Yeah. 3 of 7. | 18 THE WITNESS: No. |
| 20 | MR. MULDOON: Okay. Thank you. 3:02:33 | 19 MR. SMITH: -- just asking him if -- what his 20 basis are. |
| 21 | THE WITNESS: No. Not at this point. | 21 MR. MULDOON: Other than what's listed? 3:05:28 |
| 22 | BY MR. SMITH: | 22 BY MR. SMITH: |
| 23 | Q. Okay. | 23 Q. Yeah, is there any other basis that you have 24 for the opinion of -- |
| 24 | A. I don't -- I don't see anything that needs to 25 be changed. 3:02:44 | 25 MR. MULDOON: Other than -- |

| Page 138 | | Page 140 | |
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| 1 BY MR. SMITH: | | 1 MR. SMITH: No. | |
| 2 Q. -- reasonable -- | 3:05:31 | 2 MR. MULDOON: Or do you want to ask him if | |
| 3 MR. MULDOON: -- what's listed on the report. | | 3 there's -- | 3:07:30 |
| 4 BY MR. SMITH: | | 4 MR. SMITH: No, I -- | |
| 5 Q. Other than reasonably foreseeable, do you | | 5 MR. MULDOON: -- any others? | |
| 6 have any other basis to support that opinion? | 3:05:37 | 6 MR. SMITH: -- just want -- I want to direct | |
| 7 MR. MULDOON: Other than what's listed in | | 7 my deposition and ask my questions. That's -- | 3:07:33 |
| 8 here. | | 8 MR. MULDOON: Okay. | |
| 9 BY MR. SMITH: | | 9 MR. SMITH: -- what I want to do. | |
| 10 Q. Other than what's listed. | 3:05:40 | 10 MR. MULDOON: Do you understand the question? | |
| 11 MR. MULDOON: Okay. | | 11 He's asking you what the bases are for your opinions, | |
| 12 THE WITNESS: No. | | 12 which are listed on pages 4 and 5 of -- of your report. | 3:07:42 |
| 13 BY MR. SMITH: | | 13 THE WITNESS: Right. | |
| 14 Q. And anywhere there -- and then your next | | 14 MR. SMITH: Yeah. | |
| 15 opinion's about reasonable care and -- and Wendy's | | 15 MR. MULDOON: So I don't know if he wants you | |
| 16 failed to use reasonable care to follow applicable | | 16 to read them, read -- | |
| 17 security standards and established practices to protect | | 17 THE WITNESS: I -- | 3:07:45 |
| 18 Plaintiff and other customers from the reasonable | | 18 MR. MULDOON: -- that into the record or | |
| 19 foreseeable -- foreseeable criminal activity. | 3:06:10 | 19 what. | |
| 20 And then you go on to say include (as | | 20 BY MR. SMITH: | |
| 21 read): Wendy's failed to have a security survey | | 21 Q. No, I'm asking you, why do you conclude that | |
| 22 conducted by a competent professional to assess it | | 22 it's reasonably foreseeable that this criminal homicide | |
| 23 security needs. | 3:06:19 | 23 attack -- why is that reasonably foreseeable? | 3:08:00 |
| 24 And all the things you say in there. You | | 24 A. Well, again, they're operating in a high risk | |
| 25 know, what are your basis for forming those opinions? | | 25 environment and they know it. Wendy's vis-à-vis Rocco | |
| Page 139 | | Page 141 | |
| 1 Other than what's listed in this document. | 3:06:27 | 1 Prate knew that they were in a high risk environment. | 3:08:19 |
| 2 A. I think that's -- that's complete. | | 2 And he had discussions with management about | |
| 3 Q. Why do you deem this attempted homicide | | 3 the environment. And the -- the risks. They installed | |
| 4 attack as a reasonably foreseeable? | 3:06:43 | 4 -- | 3:08:34 |
| 5 MR. MULDOON: Going back to -- | | 5 Q. Well, let's -- hang on just one second. | |
| 6 THE WITNESS: Because of the nature of the | | 6 Let's boil that down a little bit. | 3:08:39 |
| 7 environment. You have a high risk environment for -- | | 7 When you say a high risk environment, are you | |
| 8 for this facility to operate in. | 3:07:03 | 8 basing that off of the reports from the OEMC or the CPD | |
| 9 BY MR. SMITH: | | 9 about the neighborhood? | 3:08:51 |
| 10 Q. Well -- | | 10 What are you -- what are you basing that off | |
| 11 MR. MULDOON: Are you -- are you -- are you | | 11 of? | |
| 12 asking other than what's in the report? | 3:07:10 | 12 A. Well, part of what I'm using is the OEMC | |
| 13 MR. SMITH: No, I'm -- I'm asking him | | 13 information. But they went to CAP Index and asked for | |
| 14 specifically what his thoughts are on reasonable | | 14 a report and used that as their assessment tool. | 3:09:14 |
| 15 foreseeability and why he's deemed that it's reasonably | | 15 CAP Index as well as Wendy's rated this | |
| 16 foreseeable that this attack would've happened in the | | 16 location -- | |
| 17 parking lot. | 3:07:18 | 17 Q. No. | |
| 18 MR. MULDOON: All right. Do you want him to | | 18 A. -- as a number 3 in terms of risk. | 3:09:29 |
| 19 read his report to you? | | 19 Q. No, no. I think you're getting that wrong. | |
| 20 MR. SMITH: No. I'm asking him right now. | | 20 CAP Index rated the neighborhood as a number 3 -- | |
| 21 We're just talking. | 3:07:22 | 21 MR. MULDOON: Whoa -- | 3:09:33 |
| 22 MR. MULDOON: Well, you're not just talking. | | 22 BY MR. SMITH: | |
| 23 You're asking him questions about his bases that are | | 23 Q. -- risk. | |
| 24 listed on the report, Brad. | 3:07:26 | 24 MR. MULDOON: -- whoa. Let him finish his | |
| 25 Do you want him to read them to you? | | 25 answer, and then you can argue with him. | 3:09:36 |

| Page 142 | Page 144 |
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| <p>1 BY MR. SMITH:</p> <p>2 Q. Go ahead.</p> <p>3 A. Well, according to the documents that I</p> <p>4 reviewed, the CAP Index report, which was completely</p> <p>5 incomplete, showed boxes where they rated the risk</p> <p>6 profile as a 3. 3:10:04</p> <p>7 At one point in that document, it -- it says</p> <p>8 that -- or they -- they characterize it as 1 to 3, and</p> <p>9 then in another box in that document, 3 to 6. 3:10:16</p> <p>10 And -- and those are their mileage indicators</p> <p>11 --</p> <p>12 Q. No, no --</p> <p>13 A. -- from the center. 3:10:21</p> <p>14 Q. Let me ask you this, though. Is that CAP</p> <p>15 Index score for a certain geographic location of the</p> <p>16 neighborhood or is that specific to that Garfield</p> <p>17 location based on your knowledge of these CAP Index</p> <p>18 scores? 3:10:32</p> <p>19 A. It's based on the address and then radiuses</p> <p>20 of 1 to 3 miles out from that address and then 3 to 6</p> <p>21 miles out from that address. And they characterize</p> <p>22 those as the highest risk, a number 3. 3:10:49</p> <p>23 Rocco Prate testified that they -- they</p> <p>24 classified it as a number 3.</p> <p>25 Q. Okay.</p> | <p>1 THE WITNESS: Yes.</p> <p>2 BY MR. SMITH:</p> <p>3 Q. Okay. And so you based the reasonable</p> <p>4 foreseeability on the CAP score, the OEMC, and some</p> <p>5 other stuff. 3:12:01</p> <p>6 I'm -- in fairness, what's in your report --</p> <p>7 I'm not -- I'm not stepping around that. But you --</p> <p>8 you -- it sounds like you're saying that CAP Index</p> <p>9 report's pretty important to you. 3:12:10</p> <p>10 A. It is important, because they're using it as</p> <p>11 their -- and characterizing it as their assessment</p> <p>12 tool. And quite frankly, the -- the -- the heart of</p> <p>13 the CAP Index report was not -- was not provided here. 3:12:36</p> <p>14 The CAP Index report -- and I've used these</p> <p>15 over the years frequently. CAP Index reports give you</p> <p>16 a map, and it's -- and it's very nice. 3:12:51</p> <p>17 It comes in beautiful colors. And it starts</p> <p>18 at the -- the -- the zero point and then moves out. 3:13:00</p> <p>19 So everything that goes on in the area that's</p> <p>20 covered, not just that specific location, if -- if</p> <p>21 crime is taking place in the area that they're</p> <p>22 covering, that has an impact on your location that</p> <p>23 you're talking about. 3:13:20</p> <p>24 Those -- those folks, if they commit a crime</p> <p>25 a mile or two or three away -- it's likely that they</p> |
| <p style="text-align: center;">Page 143</p> <p>1 A. So you have a high risk environment. 3:11:00</p> <p>2 Q. And you understand that that's not just --</p> <p>3 I'm not -- I'm -- what I'm trying to get at here is,</p> <p>4 that a 1- to 3-mile radius CAP score. Correct? 3:11:08</p> <p>5 A. Yes.</p> <p>6 Q. So any activity that might go into that CAP</p> <p>7 score does not necessarily have to occur on the</p> <p>8 Garfield Wendy's location. Fair? 3:11:18</p> <p>9 A. Correct.</p> <p>10 Q. It could be 3 miles down the street in</p> <p>11 Chicago. Right?</p> <p>12 A. That's right. 3:11:24</p> <p>13 Q. And any 3 miles you go on the South Side in</p> <p>14 Chicago, particularly if you get into certain</p> <p>15 neighborhoods, can have high degrees of robbery, gang</p> <p>16 activity, that sort of thing. Right? 3:11:37</p> <p>17 A. Absolutely.</p> <p>18 Q. Now, on this particular location, you've</p> <p>19 never -- you testified earlier you never saw or heard</p> <p>20 of a similar type of execution style shooting in the</p> <p>21 drive-through or parking lot area of the Wendy's. 3:11:52</p> <p>22 MR. MULDOON: Objection --</p> <p>23 BY MR. SMITH:</p> <p>24 Q. Correct?</p> <p>25 MR. MULDOON: -- to the characterization. 3:11:55</p> | <p style="text-align: center;">Page 145</p> <p>1 might commit the crime at the location, at the specific</p> <p>2 location. 3:13:36</p> <p>3 Q. And where do you come up with that</p> <p>4 conclusion? How do you base that conclusion?</p> <p>5 A. On my training, experience, and education. 3:13:45</p> <p>6 Q. Okay. And how do you reason that somebody</p> <p>7 that commits a crime 3 miles down the road would likely</p> <p>8 commit a crime at that Wendy's location? 3:13:54</p> <p>9 A. Because I've seen it happen in my experience.</p> <p>10 Q. Okay. Has it happened every time in your</p> <p>11 experience, that that type of issue happens, that</p> <p>12 automatically these criminals go down the street and</p> <p>13 then they rob the Wendy's too or something happens at</p> <p>14 the Wendy's that happens 3 miles? 3:14:11</p> <p>15 A. And -- and the question was, have I seen</p> <p>16 that?</p> <p>17 Q. Yeah.</p> <p>18 A. Yes. 3:14:18</p> <p>19 Q. And let me ask you this. In the Chicago --</p> <p>20 in the South Side neighborhood, when you go 3 miles,</p> <p>21 you're pretty far away from something on -- in the</p> <p>22 South Side. Fair? 3:14:25</p> <p>23 A. Yes.</p> <p>24 Q. It's not like a country road or something.</p> <p>25 Right? It's a city block. And you go 3 miles, you're</p> |

| Page 146 | | Page 148 | |
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| 1 pretty far distance from that location that you're at. 3:14:33 | | 1 And you include some things that you could do | |
| 2 A. If you look at the -- if you look at the CAP | | 2 that -- | |
| 3 Index report, if you -- number one, if you know what -- | | 3 A. Which -- which page are we on -- | 3:16:16 |
| 4 what the CAP Index report is based on, and you look at | | 4 Q. We are -- | |
| 5 the index report and -- and their mapping shows 90 | | 5 A. -- please? | |
| 6 percent of the area in red, not pink but red, not green | | 6 Q. -- on page 6 of 7 of your report. Do you see | |
| 7 but red, those neighborhoods adjoin one another. 3:15:01 | | 7 that? It's -- | |
| 8 There's -- you mentioned it -- gang activity, | | 8 A. Okay. Yes. 3:16:44 | |
| 9 for instance. There's a lot of crime that goes on in | | 9 Q. Okay. And is there anything else that -- | |
| 10 those kinds of high risk environments. 3:15:16 | | 10 besides what you've listed there that you would support | |
| 11 Q. Did you -- | | 11 that opinion or base that opinion on? 3:16:52 | |
| 12 A. That's -- | | 12 A. Well, the -- the armed guard service that was | |
| 13 Q. Did you look at this particular CAP Index | | 13 stopped at 10:30 -- had they expanded it to take care | |
| 14 score in these red zones that you're talking about in | | 14 of the overnight shift until 4 a.m., represented five | |
| 15 this case? 3:15:21 | | 15 and a half hours of additional coverage. 3:17:26 | |
| 16 MR. MULDOON: Well, I'll just state for the | | 16 MR. MULDOON: No, he's asking if there's | |
| 17 record it wasn't turned over. | | 17 anything else other than what's in the report. | |
| 18 MR. SMITH: No, I'm asking him. He did it, | | 18 THE WITNESS: Other than. No. 3:17:38 | |
| 19 so he can get it from his police training, experience | | 19 BY MR. SMITH: | |
| 20 -- 3:15:28 | | 20 Q. Okay. And your last opinion there on that | |
| 21 MR. MULDOON: Or -- or -- | | 21 same page. It says (as read): The bases for the | |
| 22 MR. SMITH: -- he can get it -- | | 22 opinion that Wendy's failure to use reasonable care and | |
| 23 MR. MULDOON: -- or it could be turned over | | 23 follow the applicable security industry standards and | |
| 24 in the course of discovery. 3:15:31 | | 24 established security practices was a proximate cause of | |
| 25 MR. SMITH: Well, we turned over what we had. | | 25 Plaintiff's injuries include. 3:18:04 | |
| Page 147 | | Page 149 | |
| 1 MR. MULDOON: Well -- | | 1 And then you go on to say some things. Is | |
| 2 MR. SMITH: So. | | 2 there anything else that you base that opinion in other | |
| 3 MR. MULDOON: -- maybe -- well, I'm -- that's | | 3 than what's listed in this document? 3:18:10 | |
| 4 -- that's very doubtful, Brad, and you know it. 3:15:36 | | 4 A. No. | |
| 5 I'm not blaming you. I'm blaming your | | 5 Q. You believe that this attack or what you deem | |
| 6 client. | | 6 as Wendy's reasonable foresee -- that you -- you deem | |
| 7 MR. SMITH: Well -- | | 7 this as a reasonable foreseeable criminal attack. | |
| 8 MR. MULDOON: They -- | | 8 Fair? 3:18:56 | |
| 9 MR. SMITH: -- that's not true. 3:15:38 | | 9 A. Yes. | |
| 10 MR. MULDOON: -- got the whole index, but | | 10 Q. A reasonable foreseeable military style | |
| 11 they didn't give it -- | | 11 combat style attack. Fair? 3:19:03 | |
| 12 MR. SMITH: This is -- | | 12 MR. MULDOON: Objection to -- | |
| 13 MR. MULDOON: -- to you. | | 13 THE WITNESS: No. | |
| 14 MR. SMITH: -- my dep. Please stop. 3:15:41 | | 14 MR. MULDOON: -- to the characterization. | |
| 15 MR. MULDOON: Well, I'm just saying. | | 15 Go ahead. 3:19:06 | |
| 16 THE WITNESS: I'm -- I'm sorry. | | 16 THE WITNESS: No. I -- I -- I -- there's no | |
| 17 BY MR. SMITH: | | 17 reason for me to think that that was a military style | |
| 18 Q. Did you look -- 3:15:45 | | 18 attack. 3:19:15 | |
| 19 THE WITNESS: The question was? | | 19 BY MR. SMITH: | |
| 20 Q. Did you look at any sort of CAP Index map of | | 20 Q. You believe -- were -- were the individuals | |
| 21 the area in this case? | | 21 shooting the gun in a -- in a shooting stance? In the | |
| 22 A. No. 3:15:51 | | 22 video. | |
| 23 Q. You also indicate that the -- that the burden | | 23 A. Well, sort of. 3:19:26 | |
| 24 to protect Plaintiff from reasonable foreseeable | | 24 Q. Did they have one leg behind the other in a | |
| 25 criminal activity in this case was minimal. 3:16:14 | | 25 shooting stance? Is that how you're trained to shoot a | |

| Page 150 | | Page 152 |
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| 1 handgun? | 3:19:33 | 1 Q. -- standards -- |
| 2 A. Most of the time. Yes. | | 2 A. -- wait -- |
| 3 Q. Okay. Did they appear to be aiming where | | 3 Q. -- and -- |
| 4 they were shooting? 3:19:42 | | 4 A. -- a second. Where -- 3:22:45 |
| 5 A. Yes. | | 5 MR. MULDOON: Yeah -- |
| 6 Q. Okay. Do you believe them -- that -- that | | 6 THE WITNESS: -- are you? |
| 7 this was a reasonably foreseeable criminal predatory | | 7 MR. MULDOON: -- you're jumping around. |
| 8 attack? 3:19:53 | | 8 Where are you -- |
| 9 MR. MULDOON: Objection as to the term | | 9 BY MR. SMITH: |
| 10 predatory. | | 10 Q. I'm sorry. This is on the last page where |
| 11 But if you know what he's referring to, go | 3:20:00 | 11 your signature line is. 3:22:49 |
| 12 ahead. | | 12 A. Okay. |
| 13 THE WITNESS: Well, as -- as predators, as | | 13 Q. You described there that (as read): Wendy's |
| 14 criminal predators, yeah, I -- it could be viewed as -- | | 14 failed to use reasonable care, follow the applicable |
| 15 as that. Whether or not it was a crime of opportunity | | 15 standards and established security practices to prevent |
| 16 is what hasn't been determined. 3:20:19 | | 16 the criminal activity that resulted in Plaintiff's |
| 17 BY MR. SMITH: | | 17 injuries. 3:23:03 |
| 18 Q. Do you believe this to be an attack, a | | 18 What are the applicable standards and |
| 19 criminal attack, that was carried out in -- in -- in a | | 19 established security practices that you're talking |
| 20 rapid nature? | | 20 about? |
| 21 A. It was short. It was quick. 3:20:34 | | 21 A. Conducting a -- a -- a -- a proper risk |
| 22 Q. Was it quickly carried out? | | 22 assessment and then taking actions to mitigate your |
| 23 MR. MULDOON: Well -- | | 23 findings. 3:23:30 |
| 24 THE WITNESS: Yes. | | 24 Q. And to do that, you would deem, from a legal |
| 25 MR. MULDOON: -- he just said that. 3:20:39 | | 25 perspective, that this criminal attack, this military |
| Page 151 | | Page 153 |
| 1 BY MR. SMITH: | | 1 style criminal attack, was reasonable foreseeable. 3:23:48 |
| 2 Q. I'm sorry. What was your answer, sir? | | 2 MR. MULDOON: Well, I'm going to object. He |
| 3 A. Yes. | | 3 already testified he didn't think it was a military |
| 4 Q. Was it something that happened -- I'm going | | 4 style attack. And I'm -- 3:23:51 |
| 5 to strike that. 3:20:56 | | 5 MR. SMITH: Okay. |
| 6 Do you believe that the shooters caused these | | 6 MR. MULDOON: -- going to object to that |
| 7 bullets to enter the victims' bodies? | | 7 characterization. |
| 8 A. Yes. 3:21:27 | | 8 BY MR. SMITH: |
| 9 Q. Excuse -- can you say that again, sir? | | 9 Q. Go ahead, sir. 3:23:55 |
| 10 A. Yes. They were shot. 3:21:30 | | 10 A. Well, again, there's no reason to believe |
| 11 Q. Do you believe the shooters proximally caused | | 11 that -- that this was a military style attack. And |
| 12 these bullets to enter the individuals' bodies? | | 12 there's plenty of evidence that the security program |
| 13 A. Yes. 3:21:42 | | 13 did not follow the standards and practices to prevent |
| 14 Q. Okay. Do you know how many times each | | 14 or deter something like this. 3:24:34 |
| 15 individual was shot? | | 15 Q. Let me ask you again. This particular |
| 16 A. I believe there was a reference in the police | | 16 attack. Do you believe it to be a -- a -- under the |
| 17 report that there were 16 shell casings recovered. 3:22:08 | | 17 legal definition a reasonably foreseeable criminal |
| 18 Q. And so you take that to be at least they were | | 18 attack? 3:24:51 |
| 19 shot at 16 times. | | 19 A. Yes. |
| 20 A. Their firearms discharged 16 times. 3:22:20 | | 20 Q. And you base that on the CAP score for the |
| 21 Q. Okay. Do you -- you described the applicable | | 21 area. |
| 22 standards and established security practices to prevent | | 22 A. The CAP score. 3:25:01 |
| 23 the criminal activity. 3:22:43 | | 23 Q. All the things discussed in your report. |
| 24 What are those applicable -- | | 24 A. All the things in my report. Yes. 3:25:05 |
| 25 A. Wait -- | | 25 Q. Okay. And you cannot base that on any prior |

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| <p style="text-align: right;">Page 158</p> <p>1 Q. Okay. What did you do to prepare for today? 2 A. I reread the file and my report specifically 3 along with, you know, deposition material and some of 4 the discovery. 3:31:10</p> <p>5 Q. Okay. Anything else? 6 A. Not that I can think of. 3:31:20</p> <p>7 Q. Did you meet with Mr. Muldoon? 8 A. Today. Yes.</p> <p>9 Q. What'd you guys go over? 3:31:25</p> <p>10 A. The report.</p> <p>11 Q. Okay. Did he ask you any questions that I 12 haven't asked you today? 3:31:35</p> <p>13 A. No. No, not that I can think of.</p> <p>14 Q. Okay. All right. I don't think I have any 15 further questions for you at this time. 3:31:53</p> <p>16 MR. MULDOON: Just some quick follow-up.</p> <p style="text-align: center;">CROSS EXAMINATION</p> <p>17 BY MR. MULDOON:</p> <p>18 Q. Just so we're clear. Exhibit No. 1. More 19 specifically, the report contained in Exhibit No. 1. 3:32:04</p> <p>20 That report contains the opinions that you've 21 reached in this case and the bases for all those 22 opinions. Correct?</p> <p>23 A. Correct. 3:32:19</p> <p>24 Q. And you also gave some other opinions and</p> | <p style="text-align: right;">Page 160</p> <p>1 Q. -- correct? 3:32:54 2 A. Yes. 3 Q. Okay. As far as reasonable foreseeability, 4 again, the basis for that's in your report when you 5 testified today. Correct? 3:33:05</p> <p>6 A. Yes. 7 Q. The reasonable foresee- -- foreseeability 8 would be what one would -- should reasonably expect, 9 what -- as you said, what they knew or should know. 3:33:13</p> <p>10 A. Yes. 11 Q. Okay. Okay. You testified earlier about a 12 incident in the drive-through line on the night of -- 13 in the morning of the occurrence, where there was 14 honking and arguing and cursing. 3:33:37</p> <p>15 A. Correct. 16 Q. And I believe you testified that that 17 would've brought the security guard, if he wasn't there 18 in the drive-through line -- it would've brought him 19 over there. Correct? 3:33:46</p> <p>20 A. Yes. 21 Q. And based upon -- and again, a properly 22 trained security guard. How long would he have stayed 23 in that area, say, between the menu board and the 24 drive-up window, the cashier window, after that 25 dispute? 3:34:06</p> |
| <p style="text-align: right;">Page 159</p> <p>1 other bases today in your deposition. Correct? 2 A. Yes. 3:32:24</p> <p>3 Q. Okay. Earlier you were asked about -- a 4 question about reasonable -- something -- what was 5 reasonable, and you started talking about Fort Knox. 3:32:33</p> <p>6 Okay. Do you remember that --</p> <p>7 A. Yes.</p> <p>8 Q. -- earlier? Were -- were you talking about 9 -- during that answer, were you talking about 10 reasonable care? 3:32:42</p> <p>11 Like what would -- what would constitute 12 reasonable care?</p> <p>13 A. Yes.</p> <p>14 Q. It -- it wouldn't be Fort Knox. It would be 15 what you outlined in your report. 3:32:51</p> <p>16 A. Correct.</p> <p>17 Q. And --</p> <p>18 MR. SMITH: Just objection --</p> <p>19 BY MR. MULDOON:</p> <p>20 Q. -- you testified --</p> <p>21 MR. SMITH: -- asked and --</p> <p>22 BY MR. MULDOON:</p> <p>23 Q. -- here today --</p> <p>24 MR. SMITH: -- answered.</p> <p>25 BY MR. MULDOON:</p> | <p style="text-align: right;">Page 161</p> <p>1 A. Well, he would've stayed there to monitor the 2 situation until those people were off the property. 3 Q. Okay. And that would've put him in that area 4 between the menu board and the drive-through window 5 when those two gunmen approached from the -- approached 6 onto the parking lot. Correct? 3:34:29</p> <p>7 A. Correct.</p> <p>8 Q. Okay. When you were -- when you were asking 9 question -- asked questions about the CAP Index report, 10 you identified it as one of the -- one of the important 11 factors that you looked at. Correct? 3:35:16</p> <p>12 A. Yes.</p> <p>13 Q. And is that because that's the only 14 documentation that Wendy's looked at?</p> <p>15 A. Yes. Apparently. 3:35:23</p> <p>16 Q. You were -- you were asked about whether or 17 not -- you -- you were asked about what you -- strike 18 that.</p> <p>19 You gave opinions to what you thought Wendy's 20 should've done had they -- had they used reasonable 21 care, certain measure they should've taken in -- in -- 22 in -- had they used reasonable care. Correct? 3:36:04</p> <p>23 A. Yes.</p> <p>24 Q. And those measures that would've constituted 25 reasonable care, in your opinion, again, based on your</p> |

Page 164

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CERTIFICATION

2 I, Allyson Pritchard, do hereby certify that the
3 foregoing transcript of said deposition is a true,
4 complete and correct report of the entire testimony so
5 given by said witness, together with such other matters
6 and things as counsel for the parties present at the
7 taking of said deposition desire to have appear of
8 record.

9 I further certify that on March 30, 2022 said
10 witness, S. RONALD HAURI was first duly sworn to
11 testify to the truth, the whole truth and nothing but
12 the truth in the cause aforesaid; that the testimony
13 then was recorded by audio/visual recording device, by
14 me in the presence of said witness and thereafter
15 transcribed into typewriting under my direction and
16 control.

17 I further certify that I am not counsel for,
18 nor attorney for any of the parties to the aforesaid
19 cause, nor am I related to any of the parties to the
20 aforesaid cause, nor am I interested in any manner in
21 the said cause or in its outcome.

22

23

24

25

Page 165

1 I further certify that the signature to the
2 foregoing deposition was reserved by the witness.

3 IN TESTIMONY WHEREOF: I have hereunto set
4 my hand and affixed my notarial seal:

5

6

7 Allyson Pritchard

8 April 12, 2022

9

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| <p style="text-align: center;">A</p> <p>a.m 80:23 148:14 ability 20:16 61:4,8 85:11 able 62:20 104:15 163:6 Absolutely 143:17 access 92:1 accident 103:10 133:22 accomplish 7:15 accounts 45:6 accurate 44:5 52:14 79:7 accusation 44:21 accused 43:19 act 12:1 14:5 100:3 110:19,20 111:20 112:12,12 155:13 action 100:21 112:12,13 actions 108:21 152:22 active 46:12,13 103:4 activities 78:1 156:13 activity 8:3,5,10 12:22 19:7 63:14 87:15,18 109:23 109:23,24 110:13 110:14 111:19 136:2,5,9,12,24 138:19 143:6,16 146:8 147:25 151:23 152:16 acts 11:11 94:10 actual 108:16 123:1 add 86:25 156:14 additional 63:2 148:15 address 63:24 80:6 80:7 142:19,20,21 addressed 86:24 99:10 adequate 85:12</p> | <p>adjoin 146:7 adjoining 113:11 administration 27:2 administrator 32:14 advances 102:8 advantage 23:2,6 84:24 adverse 89:13 advertise 57:4,10 advertised 57:9 advise 7:8 affidavit 51:21 52:3,4,6 55:14 affixed 165:4 aforesaid 164:12 164:18,20 Africa 28:4,6 African-American 130:14 afternoon 4:1 31:7 aggressive 127:4 ago 17:23 26:23 27:8,24 120:10 agree 68:8 80:3 agreed 55:8,14 agrees 68:5 ahead 11:14 55:15 64:10 65:5 81:6 84:14 92:3 104:8 104:10 142:2 149:15 150:12 153:9 aid 113:4,7 aiming 150:3 al 1:11 4:7 alarm 82:12 83:5 83:22 alcohol 24:21 25:10 26:8 30:10,11,12 31:8,10 32:21 37:20 38:4,10 87:12,14 alcohol-related 87:13 alcoholic 88:4</p> | <p>alert 44:10 alley 97:15 124:9 126:1,1,2,4 alleyway 65:19 66:3,23 67:20 116:18,23 123:21 125:24 126:7 allowed 111:7 Allyson 4:15 164:2 165:7 ALM 57:7 altercation 98:10 98:20 Americans 17:23 Amoco 7:19 10:9 amount 20:11 53:25 analysis 62:8 131:23 132:19 analyzed 70:19 analyzing 71:21 and/or 110:9 angles 71:1 ANSI/ASIS/RIMS 49:10 answer 5:21 14:11 17:22 18:18 36:22 54:14,16 61:15 81:6,7 103:24 104:21 111:11,24 117:4 120:11 129:24 141:25 151:2 154:18 159:9 answered 13:13 14:8 21:11 61:11 106:3,4 110:6 111:13,15 112:15 125:7 159:24 answering 63:19 anticipated 8:24 anybody 65:23 119:15,16,18 120:13,14 anymore 59:5 74:20 apartment 36:2</p> | <p>38:21 apparent 47:10 apparently 43:19 61:20 90:9 161:15 appear 66:16 120:14 150:3 164:7 appearances 2:1 4:22 appears 118:19 122:6 applicable 5:11 136:8,11,15 138:16 148:23 Amoco 7:19 10:9 amount 20:11 53:25 analysis 62:8 131:23 132:19 analyzed 70:19 analyzing 71:21 and/or 110:9 angles 71:1 ANSI/ASIS/RIMS 49:10 answer 5:21 14:11 17:22 18:18 36:22 54:14,16 61:15 81:6,7 103:24 104:21 111:11,24 117:4 120:11 129:24 141:25 151:2 154:18 159:9 answered 13:13 14:8 21:11 61:11 106:3,4 110:6 111:13,15 112:15 125:7 159:24 answering 63:19 anticipated 8:24 anybody 65:23 119:15,16,18 120:13,14 anymore 59:5 74:20 apartment 36:2</p> | <p>ASIS 49:9 58:5 133:12 asked 13:12 14:7 21:10 55:4 61:10 76:14 106:3 110:6 111:15 112:15 125:7 141:13 158:12 159:3,21 161:9,16,17 162:7 asking 13:15 41:18 53:6,7 63:17 68:3 71:13 74:7 76:15 84:12 85:5 92:4 93:4 105:23 109:7 109:10 110:16,23 110:24 111:1 120:9,23,24 123:25 132:7 134:13 137:19 139:12,13,20,23 140:11,21 146:18 148:16 161:8 aspects 9:5 assault 30:20 81:21 92:6,6,10 assaulted 34:15 36:2 45:20 assess 138:22 assessing 11:1 assessment 7:11,11 49:10 78:2,4,12 78:25 79:8 80:21 80:24 81:19 84:4 85:2 86:9,10,19 86:25 87:8,22 92:15 102:25 107:11,19 108:15 141:14 144:11 152:22 156:24,25 157:1,2 assessments 27:3 27:12 80:17 86:13 92:21 93:6 assets 11:8 49:9 133:11 assigned 19:7 Associates 1:21</p> |
|--|--|---|--|--|

| | | | | |
|---|---|---|--|---|
| 2:14 4:4 association 57:12 58:7 133:20 associations 57:14 assu- 42:8 assume 26:16 74:12 assumes 23:13 assuming 5:16 40:1 40:25 astray 82:25 at- 1:19 atmosphere 38:14 38:17 attack 6:5 13:19 15:6 40:12 41:3 42:11,16 44:3,7,8 44:24 65:20 69:8 69:14,16 74:2,22 75:4 93:25 95:3 96:12,14,19 99:15 99:21 100:19 103:9,13,19,22 104:20 105:8,10 105:16 106:1 123:2,6,14 126:17 127:4,8,10,13,20 127:22 128:2,10 128:24 129:13,22 129:25 130:1 131:3,4,9 139:4 139:16 140:23 149:5,7,11,18 150:8,18,19 152:25 153:1,4,11 153:16,18 163:5 attacked 37:9 38:23 40:19 42:2 42:3 43:22 76:3 attacking 16:24 43:9 attacks 70:20 78:16 78:22 attempt 17:18 18:4 22:11,14 69:19 72:2 94:3,20 attempted 7:8 12:3 | 13:8 14:4 18:22 25:19 64:18 78:15 93:24 130:13 139:3 attempting 19:17 20:7 71:5 94:12 attempts 64:24 attention 88:14 95:11,17,19 attesting 52:6 attorney 111:5 164:18 attorneys 4:21 33:2 33:3 46:13 attracted 97:17 audience 27:21 audio/visual 164:13 authority 55:4 automatically 145:12 availability 20:17 available 60:16 Avenue 69:1 average 13:9 aware 46:18 78:23 89:24 154:10 162:18,21 | 20:10 29:25 47:8 49:23 bad 8:11 13:22 ballistically 88:18 Ballroom 34:6 bar 30:13,17,18 31:1 32:16 33:11 33:12 39:15,16,16 40:2,6,10,18 41:2 42:4,5,15 43:3,7 43:10,13,25 44:1 86:21 87:22 88:1 92:16 barred 39:8 Barriga 40:17 41:14 bars 24:6,20 25:10 25:25 86:12 92:16 base 137:8 145:4 148:11 149:2 153:20,25 156:16 156:19 157:17 based 9:1 72:8,12 75:9,18 76:12 84:4 86:4 91:3 110:8,16 123:6,19 124:8,16 125:12 127:16,21 128:5 130:7 131:4 133:6 142:17,19 144:3 146:4 160:21 161:25 bases 27:10 107:8 108:15 139:23 140:11 148:21 154:5 155:7,11,13 156:12 158:22 159:1 basically 7:22 35:25 basing 141:8,10 156:23 basis 22:25 23:21 58:21 69:16 85:11 107:16 128:7 125:21 131:11 139:5 154:18 | 138:25 154:4 160:4 bathroom 47:15 bathtub 82:23 batter 36:20 battered 29:17 31:4 32:18,20 33:16 35:15 batteries 63:15 battering 30:3 battery 45:15 Bay 29:24 32:2 Bear 58:8 133:24 beaten 42:3 beautiful 144:17 began 23:22 73:10 behalf 4:12,25 47:11 90:1,25 behaved 44:10 behavior 124:13 belief 75:19 believe 9:16,22 10:3 15:16,21 28:17 29:12 30:18 32:13 49:5 56:5 56:18 63:3,8 68:20 73:8 74:2 80:15 84:1,5 92:17 99:13 100:7 117:21 120:21 121:1,16,19,25 123:1,5,14,19 124:1,7,12 128:1 128:5,9 132:5,25 135:5 149:5,20 150:6,18 151:6,11 151:16 153:10,16 155:9 156:16 160:16 believes 74:4 belong 35:1 58:13 58:14 Berman 35:22 better 84:20 85:16 beverages 88:4 Biery 1:21 2:14 4:3 biggest 19:9 | bill 51:11,17 billing 51:15 bit 7:8 38:5 48:2 49:16,22 67:24 77:13 79:9 84:22 85:16 90:12 116:18 141:6 black 69:3 72:11 73:9 75:22 100:19 118:16 119:2,11 123:16,16 124:13 128:11,12,15 129:11,16 130:5 131:1 blame 83:15 blamed 42:22 blaming 147:5,5 Bliss 33:13 block 145:25 board 118:14 119:6 160:23 161:4 boards 118:10 bodies 151:7,12 body 61:1 boil 141:6 books 28:17 bottom 135:18 box 142:9 boxes 142:5 Brad 53:23 77:7,12 115:12 139:24 147:4 Bradford 57:17 Bradley 2:13 4:25 branch 6:8 break 47:15 77:12 106:13,14,15 Breaking 25:21 bright 87:7 broad 11:12 134:12 brought 35:14 160:17,18 build 7:22 building 34:7 68:24 69:4 72:10 74:18 82:12 115:19 116:9,11 |
|---|---|---|--|---|

| | | | | |
|----------------------------|---------------------------|--------------------------|-----------------------------|----------------------------|
| bullets 151:7,12 | 156:22,22,23 | 32:2,6,9,11,15,16 | certain 7:17 16:9 | 100:8 143:11,14 |
| burden 136:10 | 161:9 | 32:17 33:2,8,14 | 20:11 87:16,18 | 145:19 |
| 147:23 | capabilities 13:16 | 33:20,22 34:2,4 | 102:18 108:21 | chief 9:24 10:1,11 |
| burdensome 80:1 | 99:23 | 34:20,22 35:10,12 | 134:15 142:15 | Chime 29:25 |
| burgers 87:17 | capability 14:15 | 35:13,20 36:1,8,8 | 143:14 161:21 | choice 54:3 |
| burglaries 25:20 | 85:3 94:5,5 | 37:4,13,15 38:19 | certainly 7:10 22:1 | circumstance |
| burglary 12:22 | Capital 45:16 | 39:13,14 40:1,10 | 82:6 83:2 94:16 | 80:24 95:6 103:8 |
| 13:9 14:5 | caption 56:1 | 40:10,15,17,18,25 | 128:14 | 125:5 |
| Burke 32:25 33:5 | capture 6:11 8:16 | 41:1,7,10 42:11 | certainty 76:17,20 | circumstances |
| Burke's 32:25 | car 45:10,12,13 | 42:19,23 43:7,18 | 103:17 104:16 | 15:18 24:20 26:25 |
| business 9:6 58:9 | 65:25 66:1 70:6,8 | 43:24 45:17,18,18 | 105:16,24 133:4 | 43:8 81:23 87:16 |
| 79:24 110:11 | 70:25 72:1,2,3 | 45:22 46:1,2,9,9 | certification 58:5,6 | 88:14 94:16 101:1 |
| 162:22 | 74:16 75:22 76:3 | 46:14,19 47:3,6 | 58:15 164:1 | citation 46:25 |
| businesses 23:10 | 76:6 94:22 100:19 | 48:3,6 49:8 50:14 | certifications 58:2 | city 82:21 145:25 |
| buying 93:15 | 100:20 101:4,8 | 50:20,21 51:7 | 59:14 | Civil 5:10 |
| C | | | | |
| C 108:16 | 102:8,8,11 116:22 | 54:8,19 55:7,17 | certified 3:6 53:21 | claimed 45:19 |
| calculation 132:1 | 118:16 119:11 | 55:20,23 56:3,16 | 58:4,6,7,9 | clarity 65:14 |
| 132:13 | 120:19,21 121:19 | 56:17,19,22 57:1 | certify 54:17 58:20 | Clark 31:20 |
| calculations 131:22 | 122:19 123:16,16 | 60:6,13,15,23 | 164:2,9,17 165:1 | class 27:10 |
| 131:24 132:9 | 124:13 125:10 | 61:18 78:13 84:5 | CFE 59:3 | classes 26:12,13 |
| call 64:3 67:15 | 128:3,11,12,15,20 | 84:9,10 86:11 | CHA 34:22 | classified 142:24 |
| 69:15,16,19 88:22 | 128:20,25 129:10 | 96:21 97:24 127:1 | change 61:4,8 | clear 24:16 158:19 |
| 90:5,7 127:9,12 | 129:11,16,17 | 131:4,23 136:20 | 86:16 99:3 135:12 | clearer 84:25 |
| 127:20 | 130:2,4,5 131:1 | 146:15 147:21,25 | changed 9:19 32:11 | clearly 22:21 44:15 |
| called-for 132:5 | car's 119:2 | 158:22 | 135:25 | 44:25 82:16 |
| calling 90:18 98:21 | care 80:4 136:7,11 | cases 24:2,6,19 | changes 87:9 | client 147:6 |
| 98:23 | 136:14 138:15,16 | 25:1,2,7,12,18,24 | channel 105:3 | clients 7:9,17 89:3 |
| calls 50:4,5 62:6,7 | 148:13,22 152:14 | 25:25 26:7 29:7 | characterization | Clinton 1:22 2:15 |
| 62:9 63:7,9,12,16 | 159:10,12 161:21 | 31:18 37:19 39:4 | 65:22 67:7 69:13 | 4:4 |
| 63:25 | 161:22,25 162:23 | 43:15 50:5,6 56:6 | 69:21 71:24 95:8 | clip 67:13 118:15 |
| camera 61:1 73:23 | carried 75:3 | 56:11 | 96:19 99:20 101:8 | clips 114:9 |
| 74:18 85:20 | 100:21 123:15 | cashier 160:24 | 101:11 103:13,22 | clock 117:10,18 |
| 114:11,11,22 | 127:4,6 150:19,22 | casings 151:17 | 104:20 117:1 | 121:7 122:8,17,23 |
| 116:6,11 118:1,6 | carried-out 64:24 | casual 12:15 | 127:8 143:25 | close 30:23 89:15 |
| 120:9 121:5 | carry 20:16 69:7 | 134:1 | 149:14 153:7 | closed 80:18,19,22 |
| cameras 82:13,14 | 75:4 | cataloguing 134:1 | characterize 142:8 | 81:13,14,16 82:6 |
| 83:5,23 84:20,23 | carrying 70:20 | caught 27:9 | 142:21 | 83:16 97:9 |
| 85:19 | cars 20:21 21:9 | cause 38:10 39:21 | characterized | closing 36:17,19 |
| Campbell 1:21 | 94:18 97:1 102:2 | 85:7 87:14,17 | 63:13 | 40:20 43:22 45:3 |
| 2:14 4:3 | 104:4 120:1 | 91:3 136:16 | characterizing | 45:11 89:8 |
| CAP 141:13,15,20 | case 1:9 4:7 8:21 | 148:24 164:12,19 | 144:11 | club 37:9 |
| 142:4,14,17 143:4 | 20:18 24:1 25:3 | 164:20,21 | charging 50:7,8 | collect 78:11 |
| 143:6 144:4,8,13 | 26:25 27:11,17 | caused 84:7 85:13 | check 45:12 47:8 | Colombia 7:20 |
| 144:14,15 146:2,4 | 28:7,11,18,20 | 92:5 151:6,11 | 97:6 98:23 | Colombian 7:21 |
| 146:13 147:20 | 29:6,7,13,14,16 | causing 83:15 | Chicago 1:24 2:9 | color 66:11 72:25 |
| 153:20,22 156:18 | 29:23 30:2,3,5,24 | center 45:19,21 | 2:17 4:5,12 37:8 | 129:17 |
| | 31:15,21,22,25 | 142:13 | 62:5 82:21 100:7 | colored 72:22 |
| | | Central 32:15 | | |

| | | | | |
|--------------------|---------------------|--------------------|---------------------|--------------------|
| colors 144:17 | 115:7 | contains 158:21 | country 145:24 | 138:19 140:22 |
| columns 64:4 | con- 107:8 | Continental 28:3,6 | County 56:5 | 147:25 149:7 |
| combat 6:4 7:25 | conclude 140:21 | continuing 58:20 | couple 93:16 102:1 | 150:7,14,19 |
| 12:6,20 13:8,23 | concludes 17:6 | 58:22 | 102:20 118:25 | 151:23 152:16,25 |
| 14:3 15:23 64:23 | concluding 156:17 | continuity 58:10 | course 6:20 146:24 | 153:1,17 155:12 |
| 69:8 91:4,8 92:6 | conclusion 80:13 | contractor 42:20 | 154:22 | 163:5 |
| 92:10 93:23 95:3 | 107:16,17,18,21 | 42:22 | court 1:1 4:11 39:6 | criminal's 18:5 |
| 96:11 99:14 | 124:17,22 145:4,4 | contribute 85:7 | 50:11 56:4 92:2,3 | criminals 94:9 |
| 104:23 105:5 | 155:15,24 | 86:2 87:14,17 | 163:18 | 145:12 |
| 149:11 | conclusions 76:15 | contributed 84:6 | courts 80:3 | cross 3:3 121:14 |
| combatants 8:9 | 107:9 108:16 | 85:13 92:6 | cover 63:23 95:22 | 158:17 |
| come 8:12 69:2 | 111:8 133:7,14 | contributing 91:4 | coverage 148:15 | crossed 67:16 |
| 72:10 75:16 76:5 | 134:15,25 154:13 | control 164:16 | covered 144:20 | crossing 66:23 |
| 89:3 95:13 97:21 | 154:22 155:3 | convenience 47:16 | covering 144:22 | crossover 66:7 |
| 99:8 110:14 132:1 | 156:2 | 56:21 | CPD 60:24 62:11 | 67:14 121:17 |
| 145:3 | conduct 78:3 | conversation 102:7 | 141:8 | currently 26:13,21 |
| comes 23:1,1 66:2 | conducted 138:22 | cook 56:5 103:6 | CPP 58:4,12 | 57:16 58:3 |
| 68:16 82:5 97:7 | conducting 27:3 | corner 97:23 | crazy 19:11 | curriculum 9:16 |
| 144:17 | 78:2 83:6 152:21 | corporate 10:23,25 | create 76:4 79:17 | cursing 160:14 |
| coming 18:9,14 | conflict 7:6,17 8:6 | 23:16 27:3 | 89:12 | cussing 119:15 |
| 19:10 36:20 93:15 | 8:7 91:11 | corporation 11:9 | creating 7:19 | customer 29:17 |
| 107:15,18 116:17 | conflicting 91:3,22 | corporations 23:19 | creeping 116:22 | 30:3,4 31:4 32:16 |
| 122:7 125:9 156:2 | confront 96:6 | Corral 94:17 | 117:2 | 33:16,16 40:19 |
| commit 8:13 12:16 | confrontation 95:25 | correct 5:14 9:25 | crime 8:14 12:17 | 44:16 45:2 |
| 13:22 16:12 19:17 | 96:1 97:3,3 | 12:1,2,4,8 13:10 | 13:9,22 22:20 | customers 11:9 |
| 22:20 94:9 144:24 | 97:18 121:1 | 14:6,12 15:19 | 71:22 129:9 130:2 | 31:3 34:5 81:9 |
| 145:1,8 | confronting 120:14 | 32:10 33:11 42:9 | 144:21,24 145:1,7 | 82:7 87:25 88:2,6 |
| commits 145:7 | confusion 90:12,24 | 70:21 74:1 82:10 | 145:8 146:9 | 89:6,8,17 138:18 |
| common 125:24 | connects 76:10 | 86:3,7,8 117:10 | 150:15 | CV 1:9 4:7 58:8 |
| companies 7:1 | consider 20:9 | 119:7 122:24 | crimes 132:2 | 59:22,25 |
| company 7:1 19:4 | 44:23 107:3,13 | 126:10 130:23 | criminal 8:2,5,10 | D |
| 35:2 44:17 45:5 | consideration 38:6 | 143:4,9,24 154:5 | 11:11 12:1,13,15 | daily 134:4 |
| 57:15,20,23 58:1 | considering 16:14 | 154:6 158:23,24 | 12:21 14:5 15:24 | Dan 67:19 116:17 |
| 94:22 | constantly 89:17 | 159:1,16 160:1,5 | 16:17,24 17:16 | dancing 37:21 38:4 |
| competent 138:22 | constitute 159:11 | 160:15,19 161:6,7 | 18:20,23,24,25 | 38:9 87:1,2 |
| competitive 38:14 | constituted 161:24 | 161:11,22 162:2,5 | 19:16,17 20:7,20 | dangerous 70:6 |
| 38:16 87:4 | consultant 55:10 | 162:9,10,20 164:4 | 21:8,17 22:10,22 | darts 38:15 |
| complete 49:6 | consulting 23:11 | correctly 136:18 | 22:23 63:14 64:18 | date 46:17 50:22 |
| 55:24 79:7 139:2 | 23:18,21 24:13 | could've 72:18 | 76:23 77:25 87:15 | 64:12 |
| 164:4 | 52:8,18 55:12,17 | 84:24 100:8,15 | 87:18 93:24 94:2 | dates 64:2 |
| completely 142:4 | consume 88:4 | 104:17 105:25 | 94:24 95:3,4 | day 30:20 31:5 |
| completes 5:2 | contact 17:3 | 106:1 124:23 | 96:12 103:8,18 | 58:17 82:21 93:15 |
| complex 38:21 | 102:21 | 129:10 | 109:23,23,24 | 134:14,14 |
| complexes 25:16 | contained 125:4 | counsel 164:6,17 | 110:19 111:18 | deal 28:5 103:5 |
| complicated 13:3,6 | 154:12 155:1 | counted 24:23 | 112:12,12 131:22 | dealt 11:4 25:12 |
| 13:7 | 158:20 | counter 88:12 | 131:25 132:9,21 | death 32:18 47:12 |
| computer 48:24 | containers 125:22 | countries 7:2 28:5 | 136:2,5,9,12,24 | 76:4 |

| | | | | |
|---|--|---|--|--|
| deceased 35:4 | department 75:15 76:5 154:3 | 100:1 108:25 109:4,25 110:13 110:19 111:18 112:12 153:14 | disclosures 9:14 63:3 92:3 | 95:4 96:13 97:10 97:25 98:5,11 |
| December 64:13 78:15 85:14 86:3 89:23 105:17 | departments 11:4 11:5,5 | determine 162:15 determined 150:16 deterring 108:22 deterrence 102:24 103:1,3 108:3,8 108:12,17,20 111:18 | discontent 47:11 discovery 146:24 158:4 | 99:13 101:16 118:17 119:3,25 120:13 121:1 131:9 143:21 160:12,18 161:4 |
| decided 130:4 | depending 6:10 | deterrent 94:9 100:4,4 105:22 | discusses 134:10 | drive-throughs 98:17 |
| decision 94:19 | depends 6:7,7 13:16,25 14:14 20:15 50:2 52:25 | deterrants 94:21 device 4:16 164:13 | discussion 55:1 discussions 141:2 | drive-up 88:16 96:24 97:8,15 120:22 160:24 |
| decisions 95:23 96:1 | deposition 1:15 4:6 4:10,17 29:8 32:8 48:14,17,21,25 50:13 56:24 57:1 | diagram 113:10 died 34:9 35:5 98:25 | dispute 160:25 distance 146:1 | drives 65:25 66:1 driving 89:17 |
| deem 130:8,9 133:9 133:17 139:3 149:5,6 152:24 | deposition's 5:9 | differ 92:22 difference 86:20,24 88:5 93:5,19 99:24 107:7 | District 1:1,2 4:8 5:12 15:1 | drop 95:20 dropped 59:6,13 drove 67:11 117:21 125:17 126:5,12 |
| deemed 139:15 | depositions 5:13,17 50:12 62:1,5 | differences 86:12 87:8,10 | disturbance 96:21 96:23,25 | DT 118:14 121:10 |
| defeat 13:24 | 114:7 137:9 155:18 | different 8:1 12:11 23:18 25:13 38:5 56:13 80:17,21 | disturbances 63:15 divert 95:11,18 96:6 | due 44:7 duly 164:10 |
| defeating 12:13 | deps 115:2 | 88:13 93:14 103:3 115:18 116:4 | Division 1:3 4:9 document 9:15,17 9:21 135:14 139:1 142:7,9 149:3 | dump 90:20 dumpster 67:20 117:6 |
| defendant 2:11 4:13,14 5:1 9:14 30:6 32:24 34:17 35:8,18 36:4,11 37:1 39:1,24 40:22 45:23 56:2 | deranged 19:5,10 | differentiating 25:9 | documents 48:3,8 48:12 64:7 90:17 90:19 142:3 | dumpsters 116:19 duties 10:22 |
| defendants 1:13 35:23 49:25 | Derek 36:7 | difficult 12:7,9 13:7 14:4 16:1 96:2 | Doe 35:22 45:16 doing 16:16 19:10 23:24 24:2 43:3 | duty 35:15 80:4 108:24 109:4,25 110:18 112:11,19 |
| defending 40:10 43:13 | describe 18:20 115:19 122:14 155:10,13 | digits 64:6 | door 90:15 | <hr/> E |
| defense 17:25 42:8 50:5 | described 67:15 121:11 151:21 152:13 155:14 | dining 87:6 88:12 89:14,15 | doubt 125:2 | earlier 99:23 |
| define 6:1,2,4 8:18 18:21,25 22:21 | describing 22:2 82:3 | direct 3:3 5:4 140:6 | doubtful 147:4 | 101:25 104:11 143:19 159:3,8 160:11 |
| definitely 72:21 75:6 124:4 | description 135:10 | direction 122:21 164:15 | draw 73:10 | earn 52:17 |
| definition 6:12,17 8:19,20,20,22 13:6 18:24 102:14 110:17 153:17 | descriptors 25:23 | detective 70:17 71:19 123:13,25 124:17 126:16 | drilling 7:19 | easier 13:24 |
| degree 76:16 103:17 104:16 105:15,24 133:3 | designed 8:15 | details 56:1 | drive 79:24 88:19 | easily 76:7 |
| degrees 143:15 | desire 164:7 | detective 70:17 71:19 123:13,25 124:17 126:16 | drive-through 69:4 72:11 88:13 89:24 | east 66:25 67:16 68:24 69:4 72:9 74:18 96:11 97:7 |
| Deist 39:13 | detail 136:23 | disagree 54:11 68:8 33:17 35:2 68:1 | draw 73:10 | 116:8,11 120:8 121:5 123:22 |
| Demand 4:11 | details 56:1 | disallowed 39:6 | driving 7:19 | Eastern 1:3 4:8 |
| demographics 113:3 | detective 70:17 71:19 123:13,25 124:17 126:16 | discharged 151:20 | drive-through 69:4 72:11 88:13 89:24 | eat 93:13 |
| demonstrated 137:5 | 127:19 128:6 130:7 | disclose 55:5 | education 58:21,22 59:18 76:13 133:6 | education 58:21,22 59:18 76:13 133:6 |
| demonstrative 113:4,7 | deter 83:8 94:24 | | | |
| dep 147:14 | | | | |

| | | | | |
|-----------------------------|----------------------------|----------------------------|------------------------------|----------------------------|
| 145:5 | 93:20,20 | 47:13,14,22 48:7 | face 88:20 | 119:14 132:20 |
| effect 108:9 | established 136:8 | 51:21,22,24 60:3 | facilitate 86:18 | 136:22 145:21 |
| efforts 19:23 | 136:12,15 138:17 | 60:4 114:1,2 | facilities 49:13 88:7 | 146:1 156:25 |
| eight 64:6 | 148:24 151:22 | 115:17,22 131:12 | facility 9:3 78:7,10 | 160:3 |
| either 8:9 16:16 | 152:15,19 156:15 | 131:14,17 132:24 | 79:18,24 82:13 | fashion 16:25 |
| 53:3 84:6 88:3,11 | 162:4 | 135:14 154:11,12 | 113:11 139:8 | 22:13 23:4 |
| 97:13 126:21,21 | establishment | 155:2 158:19,20 | fact 44:7,11 79:3 | fast 33:15 77:12 |
| electronically 22:5 | 32:20 39:21 40:20 | exhibits 112:20 | 100:18 113:17,20 | 86:10 118:22 |
| elements 9:1 78:5 | 41:24,25 87:15 | exist 82:8 | 124:18 156:16,23 | fault 39:11 40:2 |
| 86:14,18 | 88:25 89:18 | exists 66:20 | factor 91:4 | fear 90:1 |
| eliminate 6:11,18 | establishments | expanded 148:13 | factors 79:4 155:23 | fears 19:9 |
| else's 39:11 | 38:3 | expect 70:8 79:22 | 161:11 | federal 5:10,11 |
| emotions 38:17 | estate 35:23 | 100:19,25 113:6 | 14:16 15:11 92:2 | 14:16 15:11 92:2 |
| employee 23:17 | estimation 70:23 | 160:8 | 111:2 163:18 | 111:2 163:18 |
| 29:16 35:13 46:3 | et 1:11 4:7 | expectation 70:9 | fees 48:5 | feet 83:15 |
| 47:7,11 88:19 | evening 30:22 | expected 44:8 | failed 136:7 138:16 | fell 34:8 |
| 97:2 | event 76:23 82:15 | 113:9 | 138:21 152:14 | felt 98:25 |
| employees 11:9 | 105:22,25 111:23 | expecting 61:7 | failure 136:14 | field 24:11,18 |
| 42:21 81:12 82:7 | 137:13 | 79:17 | 148:22 | 107:2,4,5,9,14 |
| 89:9 90:2,4,22 | events 57:12 65:12 | expended 51:9 | fair 7:3 10:12 12:19 | 108:11,18 123:12 |
| 91:12 | 77:25 89:14 | experience 9:16,20 | 12:25 15:2,14 | 133:10,13,17 |
| employment 47:10 | eventually 66:16 | 20:11 23:8 49:23 | 16:3,18,25 17:18 | 134:24 |
| EMS 63:16 | everybody 45:9 | 71:15 76:12 91:19 | 17:25 18:6 19:11 | fight 119:18 |
| ended 32:18 | everyday 13:9 | 124:16 128:5 | 23:6 26:2 28:11 | fighting 98:11 |
| enforcing 90:10 | evidence 5:11 76:9 | 130:7 133:6 145:5 | 28:12 32:9 40:4,7 | 119:15 |
| engaging 124:12 | 86:1 107:16 108:9 | 145:9,11 146:19 | 40:12 41:3 42:12 | figure 50:23 54:1 |
| enter 151:7,12 | 108:21 125:1 | 162:1 | 42:18 43:10,15 | file 48:9,12 62:15 |
| entered 34:15 | 127:25 153:12 | expert 23:11 48:9 | 52:14 65:20 67:6 | 112:21 158:2 |
| 126:4 | 155:18 156:4 | 48:11 52:8,18 | 69:12 72:14,23 | filed 46:19,20 56:4 |
| entering 25:21 | Evitt 36:7 | 53:8 71:13 77:25 | 73:18 78:20 79:1 | films 70:19 |
| entire 164:4 | exact 50:23 106:4 | 91:20,21 107:3 | 79:4 80:14 85:14 | financial 55:2,6 |
| entirely 44:13 | exactly 33:25 85:15 | 123:12 126:16 | 98:12 102:25 | find 17:16 22:18 |
| entities 80:10 | exam 58:12,16,18 | 128:8,9 155:16 | 107:11,21 119:6 | 53:24 90:13 |
| entitled 53:2,4 54:2 | EXAMINATION | expertise 123:6 | 124:10 125:16,19 | 110:12 127:3 |
| 54:7,9 55:3 92:3 | 3:1 5:4 158:17 | 134:14,24 | 126:9,13 128:25 | 131:7 |
| environment 7:12 | 163:2 | experts 133:10,13 | 129:6,20 130:25 | findings 152:23 |
| 9:3 78:6 93:20 | examiner 58:6 | 134:23 | 143:8 145:22 | fine 112:20 |
| 139:7,7 140:25 | Examiners 58:7 | explain 113:19 | 149:8,11 154:1,24 | finish 141:24 |
| 141:1,3,7 143:1 | excess 31:11 50:24 | explaining 125:1 | 157:5,13,15 | fire 35:5 133:20 |
| 156:7,17 157:4,18 | excuse 8:19 9:18 | explains 130:21 | fairness 65:17 | firearms 151:20 |
| environments | 38:3 41:9 52:11 | explanation 98:4 | 144:6 | -fired 70:25 73:16 |
| 146:10 | 78:14 96:10 151:9 | expressed 133:2 | fall 129:9 | 82:19 |
| equals 156:9 | execute 6:18 | extremely 127:5 | falls 156:24 | fires 70:8 82:5 |
| equate 39:17 | execution 6:5 69:19 | Eye 126:19 | far 7:3,24 8:2 50:15 | firing 70:6 73:10 |
| equipment 84:21 | 143:20 | eyes 119:8,16 120:2 | 52:23 59:18 65:11 | 73:14 74:14 |
| 85:3 108:22 | exhibit 3:11,13 9:7 | eyewitness 126:19 | 81:24 91:22 | 122:19 |
| especially 87:24 | 9:10 28:21,25 | | | |

| | | | | |
|--|---|--|--|---|
| <p>firm 55:18 first 24:1 29:13 48:5 108:15 116:9 164:10 fitness 45:16,19,21 five 27:8,15,20 28:14 52:10,11 55:14,22 148:14 flipping 84:8,9 Florida 55:7 fluctuates 50:1 folks 80:10 99:7 105:1 144:24 follow 22:2 80:10 136:7,11,14 138:16 148:23 152:14 153:13 follow-up 158:16 followed 100:20 101:3,6,8 food 33:15 86:10 footage 49:20 61:1 61:3,6 65:7,10,16 65:18 66:20 67:3 67:24 68:14,20 70:19 71:21 72:9 73:23 75:10 81:22 83:14 95:5 96:13 98:6 101:19 112:24 113:22 114:6 116:13 118:18 119:14,21 120:13,24 121:2 121:11 122:11 123:7,20 124:18 127:21 128:7,10 footprint 97:15 fore- 43:13 foregoing 164:3 165:2 foresee 41:2 44:20 149:6 foresee- 160:7 foreseeability 40:7 40:11 42:15 43:3 43:8,14,24 44:7 47:3 76:21 79:10 </p> | <p>80:9 109:5 110:8 110:18 111:19 137:5 139:15 144:4 160:3,7 163:5 foreseeable 8:20,25 9:1 78:1 108:25 109:2 110:1,20 112:13 136:6,25 137:1 138:5,19,19 139:4,16 140:22 140:23 147:24 149:7,10 150:7 153:1,17 155:12 form 18:22 26:8 49:8 55:13 134:14 former 123:13 forming 133:14 134:24 138:25 formulate 85:12 Fort 79:17 159:5 159:14 Fortune 7:1 forward 118:22 found 25:24 43:21 45:12 50:4 foundation 61:13 68:3 100:12 four 27:8,24 29:9 52:7 89:22 156:9 four-year-old 82:22 fractions 96:2 frame 65:25 frankly 82:4 144:12 fraud 58:6,7 French 103:6 frequently 134:22 144:15 fries 87:17 front 48:7 88:12 97:23 115:7 132:24 fry 103:6 full-on 8:8 full-time 23:21 </p> | <p>fun 72:2 function 27:4 functional 82:14 further 112:4 158:15 163:15 164:9,17 165:1 <hr/> G game 38:15,18 105:2 games 38:10,10 104:8,10 106:17 112:3 115:19 gang 6:22 128:19 128:24 143:15 146:8 garbage 91:2 92:5 Garfield 86:11 89:22 131:3 142:16 143:8 Garrett 57:17 Gastelum 41:13,19 gathering 34:25 gears 106:9 generally 10:21 16:23 20:10 22:12 87:3,14,20 88:2 155:19 generating 51:11 geographic 142:15 getting 11:25 141:19 girlfriend 35:14 43:20 45:14 give 18:17 28:21 31:15,17,25 32:5 33:7,20 34:18 35:9,19 36:5,10 37:2,13 39:2,25 40:14,23 46:7 56:24 57:1 62:20 104:14 106:5 144:15 147:11 given 5:13 27:14,19 29:7 32:8 40:9 53:12 100:25 110:17 154:21 155:2 164:5 gives 112:2 </p> | <p>giving 29:21 30:8 glass 88:18 go 11:14 17:9 21:1 22:7 48:25 50:19 54:24 55:15 56:22 57:12 64:10 65:5 72:13 81:6 82:20 83:2 84:14 88:3 game 38:15,18 94:4 97:6 99:22 games 38:10,10 104:8,10 106:17 112:3 115:19 gang 6:22 128:19 128:24 143:15 146:8 garbage 91:2 92:5 Garfield 86:11 89:22 131:3 142:16 143:8 Garrett 57:17 Gastelum 41:13,19 gathering 34:25 gears 106:9 generally 10:21 16:23 20:10 22:12 87:3,14,20 88:2 155:19 generating 51:11 geographic 142:15 getting 11:25 141:19 girlfriend 35:14 43:20 45:14 give 18:17 28:21 31:15,17,25 32:5 33:7,20 34:18 35:9,19 36:5,10 37:2,13 39:2,25 40:14,23 46:7 56:24 57:1 62:20 104:14 106:5 144:15 147:11 given 5:13 27:14,19 29:7 32:8 40:9 53:12 100:25 110:17 154:21 155:2 164:5 gives 112:2 </p> | <p>grainy 84:22 85:16 gray 66:12 Grayslake 31:21 great 65:14 green 146:6 greets 102:5 Group 57:17 grudge 19:3 44:16 44:22 guarantee 104:11 105:19 106:6 guaranteed 103:7 guarantees 11:15 11:17,23 103:14 guard 43:9,17,20 43:21 44:9,15,17 44:24 45:4 93:22 93:22 94:8,11,13 94:19 95:2 96:9 96:14 97:5,11,14 97:16,19 98:22,23 99:14,23,25 100:1 104:1 105:21 148:12 160:17,22 162:16 guards 35:4 93:21 94:21 guess 11:25 24:24 26:5 44:3 85:5 95:16 107:14 120:23 125:13 guessing 107:10,14 107:23 108:2 127:24 guest 34:14 gun 88:20 95:20 149:21 gunmen 70:24 161:5 guns 63:16 124:23 gunshots 70:25 guys 8:11 13:22 158:9 <hr/> H H-A-U-R-I 5:8 half 10:3 89:20 148:15 </p> |
|--|---|--|--|---|

| | | | | |
|---|--|--|---|---|
| hand 4:18 88:20 115:6 165:4 handgun 150:1 handguns 73:17 handing 52:1 handling 35:3 handwritten 48:20 hang 20:25 141:5 hanging 102:15,18 happen 6:19,21 23:15 78:12 81:20 88:10 89:6,7 99:7 108:23 145:9 happened 30:21 39:20 44:9 59:12 78:8 83:11 85:24 98:7 128:20 130:4 131:8 139:16 145:10 151:4 happening 96:17 98:11 happens 22:3 88:11 95:20 145:11,13 145:14 Happy 93:16 hard 12:13 hardening 11:2 harder 12:18,20 13:3,6 harm 71:5 82:7,17 82:18 harm's 94:18 Hauri 1:15 4:14,15 5:6,8 6:1 9:10 55:9 107:2 164:10 Hauri's 55:3 head 25:17 46:16 82:23 127:2 heads 101:13 hear 5:23 98:14 heard 134:15 143:19 hearing 77:18 hears 97:21 heart 144:12 heightened 37:25 38:11 | Heineke 33:5 heinous 127:5 held 44:15 45:7 58:6,10 59:3 88:17 133:3 Helen 31:20 Hello 95:20 help 77:7 109:18 113:15,17,19 hereunto 165:3 Herrera 29:24 Hey 95:19 hiding 66:22 67:8 67:10 high 38:17 88:17 93:20 110:10,11 139:7 140:24 141:1,7 143:1,15 146:10 156:7,17 157:3,18 highest 24:6,19 142:22 highlight 48:14 highly 127:9 hired 33:2 46:14 47:7 history 9:2 61:20 61:23 62:2,3,4 78:8 79:2,3,5,7 126:16 127:19 hit 70:9 Hmm 33:4 hold 58:3,4 59:9 holding 8:16 holdups 89:24 home 51:17,18 homes 14:17 homi- 13:8 homicidal 16:25 homicide 12:3,21 13:8 14:4 15:24 16:12 17:18 18:5 18:23,24 19:18 20:8 22:13,15 64:19,24 78:15 93:25 94:2 103:8 130:13 139:3 | 140:22 homicides 12:6 17:24 25:19,19 honking 97:1,25 99:1 160:14 Hospitality 34:12 hostile 97:3 hot 90:18 hotel 34:14 35:13 35:14,16 Hotels 25:14 hour 50:9 89:19 hours 40:20 43:22 45:11 50:14,21,24 50:25 51:2 59:2 89:12 148:15 house 35:24,25 Housing 25:16 Howell-Darby 34:20 human 11:4 hypothetical 80:25 81:5 82:1 83:17 83:20 95:9 112:16 hypothetically 95:2 96:9 hypotheticals 84:10 | 68:21 78:25 79:4 79:6 86:15 99:9 133:17 144:9,10 161:10 impossible 79:25 inaccurate 44:4 incident 31:2 41:3 44:23 64:21 75:21 84:7 97:25 100:9 131:6 160:12 incidents 90:6 include 11:1 138:20 148:1,25 including 11:9 income 52:17,20 53:7,7 incomplete 81:5 82:1 83:19 95:8 112:16 142:5 increase 85:16 index 3:1,11 141:13 141:15,20 142:4 142:15,17 144:8 144:13,14,15 146:3,4,5,13 147:10,20 156:18 156:22,23 161:9 indicate 37:18 147:23 indicated 19:22 indicates 13:19 90:4 128:1 indicating 103:16 indication 97:24 98:9,15,20 101:18 indicator 97:5 indicators 142:10 individual 6:5 15:25 16:11 19:4 20:16 36:15 37:9 38:24 43:9 45:13 45:19 46:3 70:24 102:4 120:20 151:15 individually 53:20 individuals 69:2 73:16 74:15,17 important 60:22 | 75:21 78:16 85:17 100:16,18 119:25 120:25 122:13,15 123:2,14,20 125:3 125:4 128:2,11,12 130:14,15 149:20 individuals' 151:12 indoors 92:21 93:9 industry 109:8,13 109:14 148:23 information 5:3 7:12 55:2,6,8,13 62:13 78:11 81:8 85:25 86:6,17 91:25 128:18 130:20 141:13 156:12 informed 156:5 initiation 128:19 128:24 injure 72:3 75:6 injured 36:24 95:23 injuries 34:9 76:4 136:6,10,16 148:25 152:17 injuring 123:17 inside 36:21 37:9 39:20 43:9 45:12 90:22,23 103:6 installed 141:3 instance 4:13 63:15 65:14 88:16 103:25 146:9 162:17 instruct 54:15 instructing 54:11 intended 95:11 intent 70:24 71:12 124:8 125:12 intention 73:1 intentions 71:3 intercoms 98:16 interested 164:20 interests 11:6 internal 64:5 International |
|---|--|--|---|---|

| | | | | |
|---|---|---|---|--|
| 49:10 58:5 133:12 intersects 126:1 Introduction 135:9 investigation 75:15 122:1 invoice 50:19 involve 102:17 involved 7:18 15:18 26:8 30:10 31:8 32:16 34:4 36:15 37:7 38:8 56:21 involves 8:14 16:16 involving 24:20 36:8 39:18 issue 8:9 10:5 11:17 30:12 31:9 32:21 35:23 39:18 44:22 83:15 94:21 99:12 108:12,17,20 111:6 145:11 issues 7:3,9 12:7 28:4,5 33:25 38:11 45:1 80:5 89:11 98:21 99:9 124:21 132:2 it'd 84:10,10 It'll 115:12 items 135:3 ITLA 57:13 | judgment 46:11 jumping 152:7 | 100:5 102:19 104:12 109:16,17 109:22 110:7,8,9 110:11,12 114:21 114:24 115:2 116:20 119:9 124:24 128:19 138:25 140:15,25 146:3 147:4 150:11 151:14 156:6 158:3 160:9 162:12 knowledge 20:10 142:17 162:1 known 11:3 75:20 knows 22:7 103:5 Knox 79:17 159:5 159:14 | 152:24 153:17 163:6,8 lenses 85:19 let's 55:15 84:15 92:23 93:1,3 116:4 141:5,6 lethal 95:25 level 13:25 liability 40:12 43:15 107:4 liable 42:11 lies 24:24 life 11:23 light 66:11,11 lighted 83:24 lighting 84:6,18,19 84:23,24 85:6,9 85:13,16,18,23 86:2,5 lights 87:5,6 liked 60:12 line 3:8 17:22 96:23 97:6,13,20 99:13 102:2,5 118:17 120:1,13 128:21 133:10 152:11 160:12,18 liquor 33:12 Lisa 35:12 list 28:20 29:6,7 60:4 63:7 listed 60:10 137:21 138:3,7,10 139:1 139:24 140:12 148:10 149:3 listing 57:7 lit 84:2 literally 22:19 96:1 litigation 23:22,24 24:11,18 25:20 39:5 52:8,18,23 53:8,16 55:11,11 little 7:7 38:5 48:2 49:16,22 67:23 77:13 79:9 106:20 141:6 lived 96:3 | living 52:18 LLC 1:11 2:14 4:7 loading 124:23 Local 5:11 located 4:3,11 9:4 location 9:2,3 35:3 42:4 61:21 63:25 64:24 65:11 78:6 78:17 91:5 131:25 132:17,20 141:16 142:15,17 143:8 143:18 144:20,22 145:1,2,8 146:1 locations 11:1 37:20 Lofton 29:14,14 log 64:2 logical 129:6 loiterer 81:16 loiterers 101:20,20 101:23 loitering 101:17 102:14,22 long 20:12 35:6 58:16 74:5 160:22 longer 88:7 122:11 look 8:11 11:16 50:19 58:8 63:2 65:17 69:25 71:8 74:5 86:19 87:7 87:23 88:1 108:19 118:1 134:9 146:2 146:2,4,13 147:18 147:20 155:23 156:4,14 looked 26:11 48:3 70:5 71:4 132:4 135:3 161:11,14 looking 8:5 25:12 46:22 65:13,25 73:5 100:19 115:24 118:21 131:5 132:21 135:14 156:1 looks 50:7 102:20 lot 6:25 13:15 19:6 25:25 33:17 37:18 |
| J | | | | |
| J 2:13 Jane 35:22 January 46:24 78:14 86:3 Jefferson 4:11 Jersey 14:17 15:10 Jesse 36:14 job 91:16 96:8 Joel 35:22 jog 74:19 jogging 69:3 72:10 74:17 John 45:16 journals 57:8 judge 15:11 judges 14:16 | 15:28 16:11,21 17:7 18:9,12 22:12,21 23:24 24:15,22 25:7,11 25:11,22 26:3,4 26:10 28:20 30:20 31:5 38:7,15 50:16 51:20 53:3 53:23 57:2 60:21 61:25 62:2,3,4,9 62:11,19 67:9 70:13 73:2 75:14 75:25 76:3,6 80:4 82:4,22 83:21,22 84:3,19 89:2 94:14 98:2,3 99:7 | 15:28 16:11,21 17:7 18:9,12 22:12,21 23:24 24:15,22 25:7,11 25:11,22 26:3,4 26:10 28:20 30:20 31:5 38:7,15 50:16 51:20 53:3 53:23 57:2 60:21 61:25 62:2,3,4,9 62:11,19 67:9 70:13 73:2 75:14 75:25 76:3,6 80:4 82:4,22 83:21,22 84:3,19 89:2 94:14 98:2,3 99:7 | | |

| | | | |
|---|---|---|--|
| 40:19 45:11 66:1 66:2,23 67:11,16 68:17 79:21 80:23 81:15 82:6 83:13 83:24 84:2,6 85:6 85:24 88:24,24 89:15 92:7 93:13 93:14,19 94:8 96:21,23 97:11 99:10 101:16,21 101:24 102:1,6,9 102:10,12,20 103:10 104:2 117:18,22 120:18 122:16 125:14,16 125:17,19 126:3,5 126:5,12 139:17 143:21 146:9 156:11 161:6 lots 92:20 loud 115:10 lower 82:18 | 47:22 48:6 51:21 51:22 60:3 115:16 115:16,22 marker 114:5 matches 135:5 material 49:1,1 137:12 158:3 materials 48:8 49:3 50:8 51:20 62:8 62:18 90:13 112:22 133:7 155:17,19 mathematical 132:13 matter 4:6 28:16 matters 135:11 164:5 meal 88:3 89:4,20 93:13 Meals 93:16 mean 19:13 26:3 31:12 54:2 65:12 67:10 79:14 80:20 80:22 95:16 101:12 105:25 107:4 129:4,22 133:5,19 135:13 162:11 meaning 23:12 51:15 means 8:22 13:7 88:24 meant 69:25 measure 161:21 measures 16:10 38:2 81:24 154:8 161:24 162:9,13 mechanisms 64:5 media 22:5 57:7 medical 10:5 Medrano 29:23 meet 158:7 member 45:19 members 22:24 memory 118:18 men 34:8 44:22 mentally 19:5,10 | mentioned 86:15 87:1 89:25 109:15 118:4 134:7,21 146:8 menu 118:9,14 119:6 160:23 161:4 mere 100:3 mess 118:22 method 13:23 Michael 2:5 4:23 29:13 middle 93:15 mile 144:25 mileage 142:10 miles 142:20,21 143:10,13 145:7 145:14,20,25 157:5,14 military 6:2,4,8 7:21 8:8 13:19 14:3 64:23 69:7 69:14,15 78:16,21 79:21 95:3 96:12 99:15 103:9,19 104:17,23 127:4 149:10,17 152:25 153:3,11 mind 6:13,17 71:9 72:22 75:9,12,13 130:1 minimal 136:13 147:25 minute 123:3 minutes 74:3,3,21 98:8 99:2 102:21 118:25 missed 135:7 missing 48:11 49:4 53:9 59:15,25 157:25 mistake 71:8 72:16 72:19,21 76:7 mistaken 72:12 mitigate 8:23 13:21 109:16 152:22 156:8 | 54:24 55:18 56:14 59:19,22 61:10,13 62:25 63:2,19 65:2,21 66:18 67:1,4,7 68:2,5 69:10,13,20 70:2 70:11 71:2,11,18 71:20,23 72:15,24 74:4,23 75:1,11 75:23 76:24 77:7 77:11,18 78:18,21 80:25 81:2,4,25 83:17,19 84:8 91:6,8 92:8,10 94:1 95:7,14 96:15,18 99:18 100:10,22 101:2,7 101:10 103:12,21 104:19 105:11 106:3,9,12,14,16 109:7 110:3,6,22 111:13,15,21 112:1,7,9,15 113:8,25 114:4,8 114:10,14,17,20 114:22,25 115:3 116:2,6,24 117:1 117:15 118:7,11 118:21,24 119:23 121:21,24 123:8 123:23 124:2,14 124:19 125:6,20 126:19 127:7,14 127:17,23 128:13 129:1,8,18,21 130:9,16 131:13 132:10,13 135:15 135:18,20 137:15 137:21,25 138:3,7 138:11 139:5,11 139:18,22 140:2,5 140:8,10,15,18 141:21,24 143:22 143:25 146:16,21 146:23 147:1,3,8 147:10,13,15 148:16 149:12,14 |
|---|---|---|--|

| | | | | |
|---|--|---|--|---|
| 150:9,23,25 152:5 152:7 153:2,6 154:17,21 157:19 158:7,16,18 159:19,22,25 163:1,10,12,16,18 163:20 Muldoon's 54:19 55:18,20 multiple 5:13 70:25 70:25 71:1 73:17 73:17 murdered 46:3 | 71:10 87:24 89:7 89:10 101:19 103:10,19 104:18 106:1 160:12 nightclub 30:13,17 30:19 36:15,16 37:7,8,18 86:21 87:22 nightclubs 24:7,20 25:10 26:1 86:12 92:16 noise 29:25 non-conflict 7:25 normal 7:25 12:21 14:5 north 1:22 2:15 4:4 66:23 67:17 68:23 73:22 114:18 118:2,3,5,7,8 122:9 123:21,21 126:12,13 northbound 126:2 Northern 1:2 4:8 5:12 15:1 notarial 165:4 notary 4:16 notes 48:17,20 notice 157:3 number 1:9 3:8,8 3:13 25:12 26:4 28:22 57:8 63:12 64:4 114:1,23 134:1 141:18,20 142:22,24 146:3 | 18:16 19:2,12,19 19:24 20:3,14,22 21:10,19,25 22:16 23:12 52:10 61:10 65:2,21 66:18 67:1,4 68:2 69:10 69:20 70:2,11 71:2,11,23 72:15 72:24 74:4,23 75:11,23 78:18 81:4,25 83:19 91:6 92:8 95:7,8,9 95:14 96:15,18 99:18,20 100:10 100:11,11,11,22 101:2,7 103:12,21 104:19 106:3 110:3 112:15 116:24 121:24 123:8,23 124:2,14 124:19 125:6,20 127:7,14,23 128:13 129:1,8,21 143:22 149:12 150:9 159:18 objections 111:21 objective 8:15,17 Occasionally 57:5 occupants 71:5 72:3 75:7 occur 44:11 95:4 143:7 occurred 31:6 96:12 103:9,10,19 105:17 occurrence 160:13 occurring 65:20 occurs 80:23 OEMC 132:4,8,20 141:8,12 144:4 offender 13:14,16 14:1 32:17 34:23 43:17 objecting 53:23 objection 11:12 12:23 14:7,8,19 15:3,7,12,20 16:4 16:8,19 17:1,5,11 17:19 18:1,7,13 | 56:13 officer 36:9 100:8 123:13 124:1 127:20 128:6 130:8 officers 79:21 83:6 100:8 oftentimes 12:12 22:25 oh 6:20 23:20 34:17 57:14 59:2 60:1 114:20,25 118:24 124:14 oil 7:19 OK 94:17 okay 5:24 6:15,24 7:7 8:18 9:9,15 10:6 11:7 15:23 18:17 20:25 24:12 25:15 28:10 29:6 29:13 31:5 32:21 33:7 34:2,10,12 36:7 38:25 39:13 39:23 40:14,21 41:23 43:2,12,23 45:16,22 46:5,19 47:13,18 49:2,7 49:16,19,22 52:4 55:15 56:6,16,22 57:12,15,20,22 58:2,12,18 59:14 60:2 61:17,25 62:17 63:1,4 64:1 65:17 66:22 67:23 77:16 78:25 80:13 80:16 81:4,18 84:8 85:5 87:21 92:14 93:4,7 98:19,24,25 100:25 102:17 103:2 104:15 105:9 106:8 108:5 111:10 112:19,20 113:22,23 114:4,8 114:10,25 115:3,4 115:9,13,13,20,24 116:2,9,16,20,22 | 118:5,5,12,20 119:9 120:8 121:4 121:4,13,14 122:10 124:7 126:15 127:12 131:11,18 132:23 134:8 135:2,9,20 135:23 136:1 137:8,10,14 138:11 140:8 142:25 144:3 145:6,10 148:8,9 148:20 150:3,6 151:14,21 152:12 153:5,25 154:4,11 154:24 155:7 157:17 158:1,5,11 158:14 159:3,6 160:3,11,11 161:3 161:8 162:7,18,25 163:1,14,16,20,22 on-site 87:25 once 94:20 one's 81:17 ones 25:17 133:16 134:4,5,6,16,17 134:19,21,22,23 155:14 open 80:19 81:15 operate 22:25 110:10 139:8 operated 96:4 operating 140:24 156:6,6 157:3 operation 8:15 10:23 86:21 88:18 89:10 operational 9:5 86:23 89:12 operations 7:23 25:14 78:9 86:20 87:23,24 operator 4:16 opine 92:4 104:16 105:15,20,24 111:7 163:6 opined 91:10,23 |
| neighborhood 141:9,20 142:16 145:20 neighborhoods 143:15 146:7 never 17:3 44:3,8,9 44:10 45:1 96:3 111:9 125:14,18 143:19,19 New 14:17 15:10 news 14:16 newspaper 82:21 NFPA 133:18 nice 144:16 night 34:15 46:4 | oath 4:18 47:25 object 13:12 37:22 53:2 94:1,2 101:11 110:22 153:2,6 154:21 163:12 objecting 53:23 objection 11:12 12:23 14:7,8,19 15:3,7,12,20 16:4 16:8,19 17:1,5,11 17:19 18:1,7,13 | occurrence 160:13 occurring 65:20 occurs 80:23 OEMC 132:4,8,20 141:8,12 144:4 offender 13:14,16 14:1 32:17 34:23 43:17 offender's 94:5 offering 102:24 office 22:8 32:25 54:20 55:21 56:7 | 80:16 81:4,18 84:8 85:5 87:21 92:14 93:4,7 98:19,24,25 100:25 102:17 103:2 104:15 105:9 106:8 108:5 111:10 112:19,20 113:22,23 114:4,8 114:10,25 115:3,4 115:9,13,13,20,24 116:2,9,16,20,22 | 80:16 81:4,18 84:8 85:5 87:21 92:14 93:4,7 98:19,24,25 100:25 102:17 103:2 104:15 105:9 106:8 108:5 111:10 112:19,20 113:22,23 114:4,8 114:10,25 115:3,4 115:9,13,13,20,24 116:2,9,16,20,22 |

| | | | | |
|---|--|---|---|--|
| opining 27:16 91:1 91:24 155:11 opinion 40:9 41:1,5 41:6 42:10,14 43:23 44:3 47:2 72:7 76:15 85:12 86:1,4 99:3 101:23 107:8 133:2 136:1,24 137:8,24 138:6 148:11,11,20,22 149:2 155:15 161:25 opinion's 138:15 opinions 27:10 29:20 30:7 33:22 34:1 37:15 39:8 39:25 42:18 43:6 43:16 47:2,6 48:25 49:8 60:6 61:4,8 91:21 102:23,24 133:8 133:14 134:15,25 135:4 136:20 138:25 140:11 154:13,22 155:3 155:20,25 158:21 158:23,25 161:19 opportune 21:16 22:11,14 opportunity 12:16 22:18,20,25 44:25 129:10 130:3 150:15 opportunity's 23:5 opposed 11:21 12:15 13:9 103:6 134:11 order 11:8 61:14 75:4 76:3 79:7 81:7 86:18,25 118:12 ordering 118:10 organization 58:13 58:14 original 105:12 137:15 | originally 102:10 outcome 16:14 108:10 164:21 outcomes 107:23 outdoors 93:10 outlined 159:15 outside 32:20 33:17 37:10 65:11 68:21 82:24 85:6 98:11 154:13 155:1 Overall 50:1 overnight 104:2 148:14 162:16 | 102:1,6,9,10,20 103:10 104:2,3 116:19 117:21 120:18,18 122:16 125:14,16,17,18 126:3,5,5,12 139:17 143:21 161:6 part 5:19 27:2 35:24 42:14 44:2 44:17 45:4 62:13 72:19 96:8 125:18 135:5 141:12 157:2 particular 8:17 16:1 25:3 33:10 44:16 63:6,17 73:6 75:4 76:2,8 77:25 84:1 87:15 89:22 91:4 92:23 111:20 118:15 129:17 131:3 143:18 146:13 153:15 particularly 143:14 parties 164:6,18,19 partner 57:18 party 82:24 passed 120:5 Patricia 32:14 patrolled 93:21 patrolling 94:8 104:2 patrols 83:7 pause 67:24 paying 88:14 PD 62:6 PDF 135:13 Pecoraro 31:20 peeled 119:8 pending 112:7 people 8:16 16:10 20:13 22:24 35:1 70:20 76:1,1 81:8 82:16 88:24 93:18 94:17 95:24 96:3 97:1,9 101:15 | 102:1 120:17 123:15 125:9 161:2 percent 11:18 50:2 146:6 percentage 24:6,19 25:18 26:6 49:24 52:7 53:3,4,7,12 53:13,24 54:10 55:9,10 132:2 percentages 52:8 52:17 perfect 11:19,22 109:21 perfection 11:19 104:12,14 perimeters 7:17 period 59:1 63:7 67:21,25 88:1,7 102:18 117:7 124:9 126:8 person 17:7 18:24 20:10 40:20 102:5 102:9,10 103:4 123:16 126:22 personally 126:24 perspective 109:8 137:3 152:25 phonetic 13:5 phrase 6:6 91:8 92:10 94:1,2 104:24 physical 98:10,20 pick 89:2 105:1,2 picked 128:21,25 129:10 picking 76:7 pink 146:6 place 22:6,8 33:10 45:15 97:4 108:19 109:20 113:21 114:5 137:13 144:21 placeholder 115:16 placement 113:11 places 22:7 24:20 25:10 38:3,8 | plain 88:9 plaintiff 1:7 2:3 4:24 29:19 31:14 31:24 33:19 34:11 34:17 36:1 37:12 38:23,23 46:6 50:6 56:17 136:17 138:18 147:24 Plaintiff's 9:14 136:5,10 148:25 152:16 plaintiffs 49:25 plan 16:13 91:24 109:3,3 112:20 planner 58:10 planning 7:13 13:20 20:5 platform 7:22 play 77:4,9,14 please 4:17,21 21:1 58:9 77:3,4,10,15 111:24 147:14 148:5 154:19 plenty 109:18 153:12 plus 156:9 pod 60:24 point 66:17 67:18 74:8,8,12 82:11 86:8 98:6,9 102:3 108:14,15,16 120:15,24 121:2 125:15 126:2 130:19 135:21 142:7 144:18 155:21,21 points 98:15 poker 39:16,18 police 6:3 9:24 10:1 10:11,18 11:5 31:22 36:8 64:11 75:15 76:4 79:21 90:5,7 98:22 100:7,8 122:1 123:13 124:1,4 127:20 128:6 130:8 146:19 |
|---|--|---|---|--|

| | | | | |
|--|---|--|--|---|
| 151:16 154:3 policeman 71:17 policies 90:9,10,13 90:25 policy 91:1,22 pool 38:15 pops 121:5 population 93:12 portal 51:14,14,14 position 10:4,6 positioning 124:8 positions 10:21,22 23:18 possibilities 130:18 possibility 85:17 possible 61:6 73:3 100:13,15 124:5 125:7,8 possibly 51:1 85:9 96:20 113:5,8 potential 20:17 potentially 61:3 63:8 95:21 Pourghobadi 34:12 practice 109:9 134:4 practices 110:25 134:2,10 136:8,12 136:15 138:17 148:24 151:22 152:15,19 153:13 156:15 162:4 Prate 137:9 141:1 142:23 pre- 12:7 pre-planned 6:10 6:17 14:3 17:17 18:5 44:23 123:5 123:10 pre-planning 15:24 19:23 pre-trained 6:9,18 predating 78:14 predator 15:23 16:17,24 17:16 18:5,23 19:1 20:7 21:17 22:10,22 | predators 12:12,13 18:20 19:16 20:20 21:8 22:10,24 95:4 150:13,14 predatory 64:18 93:24 94:2 150:7 150:10 premeditated 130:8,9 premeditation 16:1 premises 26:13 107:4,4 preparation 60:5 65:8 prepare 158:1 presence 82:16 94:7 99:25 100:3 164:14 present 164:6 presentation 28:10 presentations 27:19 28:9,13 presented 27:25 128:8 pretty 11:6 65:10 144:9 145:21 146:1 prevent 12:7,20,21 13:7 14:4 16:2,24 17:17,24 18:5 40:7 43:8 83:7,8 93:23 94:13 95:6 96:14 100:2 103:18 104:17 136:9,12 151:22 152:15 153:13 preventable 12:1,3 prevented 99:14 100:9 103:8 104:18 105:18,20 105:25 106:1 preventing 8:2 109:24 prevention 102:25 103:1,3 104:12 108:2 133:22 prey 22:24 | Price 46:1 Primarily 42:5 137:9 primary 78:5 Princeton 69:1 122:9,16,22 126:13 principles 134:3 prior 9:2 19:17 64:15,21,25 65:19 75:20 89:22 96:22 98:11 101:25 153:25 Pritchard 4:15 164:2 165:7 private 6:19 10:11 10:20 23:9 probably 24:6 27:8 117:25 problem 97:6 problems 87:13 procedural 87:9 procedure 5:10 91:1 procedures 90:9,11 90:14,25 91:17 137:12 proceed 5:3,17 proceeding 39:9 process 35:6 36:19 36:23 130:21 produced 62:17 professional 9:16 9:20 58:5 76:16 76:19 77:24 79:11 133:3 138:22 professor 26:17 profile 142:6 profit 79:25 program 16:13 27:2 153:12 156:14 programs 17:10 promulgated 133:12 proper 84:23 152:21 | properly 83:24 84:2 160:21 Properties 1:11 4:7 property 34:22,23 38:24 45:3 80:17 81:20 125:19 126:3 161:2 protect 11:8 88:19 138:17 147:24 protected 79:20 protection 10:8 17:10 49:9 58:4 133:11,20 provide 55:8 86:25 154:8 provided 44:17 45:5 62:8,12,23 62:25 66:20 67:3 112:21 144:13 155:19 proximally 151:11 proximate 136:16 148:24 public 4:16 10:14 10:17 publication 49:12 134:10 published 49:9 publishers 57:8 pull 67:18 pulled 63:18 pulling 66:24 119:2 119:5 pure 72:17 75:12 purpose 102:15 purposes 123:15 pursuant 5:10 pursuit 31:22 put 50:14 88:20 90:16 94:18 101:13 109:20 114:5 161:3 puts 157:2 putting 17:15 | R radius 143:4 157:11,15 radiuses 142:19 raise 4:18 raped 45:14 rapid 73:12,13 150:20 rapidly 73:16 raping 43:20 rated 88:18 141:15 141:20 142:5 reach 115:12 |
| | | Q Q- 86:21 QSR 49:12,13 | | |

| | | | | |
|---|--|---|---|--|
| 124:17 reached 158:22 read 77:2 80:2 82:20 84:15 90:17 90:19 111:24 136:4,18 138:21 139:19,25 140:16 140:16 148:21 152:13 154:18 155:19 156:4 reading 48:21 real 35:23 really 13:25 16:5 24:22 25:11,22 50:2 86:24 96:4 101:12 124:24 reason 77:24 84:5 107:20 108:11,13 125:2 128:1,15 130:3 145:6 149:17 153:10 155:16,22 163:4 reasonable 7:24 8:1,22 40:6,11 42:15 43:7,13,14 43:24 44:6 47:3 70:9 75:19 76:16 76:20 79:10,16 80:8,9 81:23 83:10 103:17,24 103:25 104:16 105:15,24 109:5 109:16 110:8,17 111:19 112:13 133:3 136:7,10,14 137:4 138:2,15,16 138:18 139:14 144:3 147:24 148:22 149:6,7,10 152:14 153:1 155:12 156:7 159:4,5,10,12 160:3,7 161:20,22 161:25 162:23 163:4 reasonableness 11:16,20 | reasonably 8:20 41:2 78:1 108:25 109:2 110:1,20 133:14 134:24 136:6,24 137:1 138:5 139:4,15 140:22,23 150:7 153:17 155:12 160:8 reasoned 76:19 85:12 107:8,19 155:24 reasoning 107:9 156:5,11 reasons 128:7 rebar 34:9 recall 15:8 29:20 30:7,12 31:9,11 46:15 49:18 55:24 55:25 56:15,20 57:3,11 66:14 98:18 102:3,8 120:16 126:25 receive 52:20 recognized 45:13 recommendations 11:2 recommending 154:9 record 4:2,22 5:7 21:1,2,3,4 47:18 47:20,21,24 54:25 90:3 106:21,23,24 127:25 140:18 146:17 163:23,24 164:8 recorded 4:10 164:13 RECORDER 4:1 4:20 5:2 6:14 18:15 21:2,4 47:18,21 77:5,16 84:16 106:19,21 106:24 112:3,6 115:12 163:23 recording 4:16 77:6,17 82:14 | 84:17 112:5 154:20 164:13 records 61:19,20 61:22,24 recovered 151:17 RECROSS 3:3 red 146:6,6,7,14 REDIRECT 3:3 163:2 reducing 109:23 refer 64:6 104:23 reference 151:16 referring 65:24 150:11 reflect 63:11 regard 156:13 regarding 49:12 55:3,5 59:21 64:5 131:24 regards 28:3 61:20 region 57:25 regular 8:13 88:22 rejected 36:23 relate 12:6 26:24 27:16 28:6 37:15 47:3 related 10:24 26:13 27:10 28:18 40:1 42:14,19,20 43:14 43:16,24 91:2 92:15 98:1 162:8 162:12 164:19 relates 8:21 28:10 76:20 relationship 43:16 relatively 87:25 relevance 13:1 14:9 14:22 15:3,7,15 15:20 16:4,19 17:1,13,19 18:1,7 19:2,12,19 20:3 20:14,22 21:10,22 22:16 65:2 100:10 rely 133:14 134:24 remain 21:14 remained 124:9 remember 21:7 | 33:23,25 66:10 105:12 159:6 remote 45:10 rented 35:24 repeat 25:5 58:18 76:24 77:1,22 repeating 21:7 replayed 77:6,17 84:17 112:5 154:20 report 49:2 63:6,10 63:17,23,24 64:11 64:13 65:8 91:23 131:19,20 132:4 132:20,23 133:3 135:15 138:3 139:12,19,24 140:12 141:14 142:4 144:6,13,14 146:3,4,5 148:6 148:17 151:17 153:23,24 154:12 154:14 155:1,4,8 155:14 157:20,22 157:23 158:2,10 158:20,21 159:15 160:4 161:9 164:4 report's 144:9 reported 34:14 154:2 Reporting 4:11 reports 141:8 144:15 represent 102:12 represented 148:14 represents 97:14 request 48:8 require 154:7 required 5:2 37:19 55:5 78:3 110:23 111:17 requires 88:14 reread 158:2 research 131:4,5,7 131:23 162:14 reserve 163:17,20 reserved 165:2 | residential 83:2 resolve 46:9 resolved 37:4 45:1 resources 11:4 respond 97:22 response 48:7 49:3 rest 157:24 rest- 33:10 restaurant 25:3,8 29:16,17 30:4,14 30:15,16 31:1 33:15,16 38:2 40:18 41:2 42:5,7 42:11,15 43:3,7 43:13,22 44:1,6 44:10,18,19 46:2 63:9,25 64:14 65:19 79:20 80:18 80:18,22 81:14 82:6 83:1,3,12,13 83:16 84:1,19 85:6 86:10 87:19 88:1,9,9,23 89:2 89:21 92:24,25 93:2,3,7 97:15 99:16,16 103:6 108:24 109:4,25 110:18 111:17 112:11,14,19 131:3,8,22 restaurant's 81:13 81:16 restaurants 25:9 26:1 92:23 98:17 resulted 136:3,5,9 152:16 results 38:18 retail 25:14 79:18 retainer 51:6 retreated 73:20 retrial 32:3,12 return 35:5 review 49:8 72:8 90:13 101:18 123:6,19 127:21 128:6,10 reviewed 49:19 |
|---|--|---|---|--|

| | | | | |
|---|--|--|--|---|
| 60:5,10 65:7 74:7 119:22 126:21 135:7 142:4 reviewing 124:18 133:7 135:4,6 155:17 revolved 33:24 Richard 31:20 rider 48:8 right 4:18 6:1 11:21 15:1 19:9 23:5,5 25:17 32:12 36:16 38:19 41:23 43:25 47:13 47:17,24 54:2 59:4 60:2 66:3,12 83:3 85:2 92:19 106:19 107:8 113:24 114:17 115:4,7,11,15,21 116:10,21 117:20 121:15 129:6 139:18,20 140:13 143:11,12,16 145:25 157:24 158:14 rise 110:10 risk 27:3,12 49:10 78:2,3 80:5 82:7 82:17,18 86:9,13 87:22 88:17 92:14 92:15,21 93:6,20 110:11 139:7 140:24 141:1,7,18 141:23 142:5,22 143:1 146:10 152:21 156:7,17 157:3,18 risks 11:3 110:11 110:13,14 141:3 156:8 road 145:7,24 roadway 67:17 rob 145:13 robbed 36:2 88:23 robberies 25:20 robbery 8:12 12:22 | 13:10 14:5 89:1,5 143:15 Rocco 137:9 140:25 142:23 role 10:10 Ron 131:18 Ronald 1:15 4:14 5:8 164:10 roof 34:7 room 34:15 87:6 88:12 89:14,15 roughly 117:9 118:14 rounds 82:19,24 83:2 Rule 9:14 63:3 rules 5:10,11,11,16 run 38:17 96:7 running 69:3 122:19 Ryan 33:13,13 67:19 116:17 | Scott-Blake 37:6 screaming 99:1 119:15 120:1 screen 48:24,24 74:18 seal 165:4 seat 102:4 120:19 second 17:23 18:17 20:25 29:23 48:4 60:2 96:2 115:9 120:9 121:4 141:5 152:4 sector 10:11,15,18 10:20 23:9 secured 7:16 securing 8:2 security 7:3,8 10:23,25 16:9,13 26:14,14 27:2,4 28:4 33:25 35:2,3 37:16,19 38:2 40:20 42:20,22 43:9,17,20,21 44:9,15,17,18,24 45:4,5 49:13 55:10 59:21 76:16 76:20 77:24 79:11 80:17 81:24 83:6 Sat- 29:23 Saturnino 29:23 32:2 saw 45:10 67:10 68:16 75:9,18 81:21 95:5 96:13 98:6 117:21 126:22 143:19 155:4 saying 26:15,16 97:12 144:8 147:15 155:22 says 90:14 142:7 148:21 162:15 schematics 113:3 score 142:15 143:4 143:7 144:4 146:14 153:20,22 156:18,22,24 scores 142:18 Scott 1:5 4:6 | 67:13,17 69:2 73:25 74:5,17,19 83:13 85:9 94:11 95:20 97:20 98:13 98:14 99:6 101:9 105:1 108:20 113:17 116:14,16 116:20,22 117:6 117:15,18 118:3,9 119:9,16 121:8,13 122:3,10,15 133:1 135:2,9,24 148:6 seeing 85:23 122:14 seen 14:16 60:13,25 62:14 68:6,12,13 73:23 76:9 90:4 119:15,22,23,25 120:12,25 124:3 126:23 128:1 131:2 145:9,15 select 115:18 selected 128:14 130:25 131:1 selection 129:14 130:21 self 17:24 send 55:4 sense 89:15 sent 54:9 55:7 seriously 71:5 72:3 123:17 serve 24:21 25:10 37:20 86:10 87:18 94:9 served 30:11 31:10 105:22 service 31:11 62:6 62:7,9 63:9,12 79:19 132:5 148:12 services 10:8 57:4 serving 87:11 set 46:17,17 47:13 64:6 88:14 165:3 setting 25:20 30:25 80:11 | settings 25:4,6 93:6 93:9 sexually 36:1 45:20 sheets 90:18 shell 151:17 shift 46:4 104:2 148:14 162:16 shoot 72:1 73:6 95:13 121:23 128:15 130:2,4 149:25 shooters 66:15 69:7 70:3,12 72:10 75:19,24 76:10 98:1,5 121:20 125:3,5 127:3 151:6,11 shooters' 71:3 shooting 39:15,19 39:22 40:3,7,11 41:3,24,24 64:12 64:15,25 68:25 69:8 71:9,25 78:14 80:23 81:19 81:21 82:24 83:11 83:14 84:7 85:8 85:14,24 86:2 89:23 91:5,9 92:7 92:11 96:7,22 98:8,12,20 99:2 101:19,25 103:11 104:17 106:1 126:25 130:11 131:6 135:11 143:20 149:21,21 149:25 150:4 shootings 64:14,19 70:20 154:1,2 shootout 100:16 short 6:9 35:6 87:25 114:9 150:21 156:25 shortly 51:11 shot 35:4,5 42:1 75:22,22 76:6 82:23 118:17 151:10,15,19 |
|---|--|--|--|---|

| | | | | |
|---------------------|---------------------|-------------------|---------------------|----------------------|
| shots 73:17 82:5 | 131:12 132:7 | 81:1,3,10 82:2 | solve 89:13 | 104:20 107:2,3,13 |
| should've 84:20 | 151:2,9 153:9 | 83:18,25 84:13 | somebody 19:10 | 107:24 121:24 |
| 161:20,21 | sit 9:20 88:3 89:3 | 85:4 91:18 92:13 | 82:5,23 89:20 | 123:8,23 124:14 |
| shoutout 94:17 | 89:19 93:12 | 94:25 95:12,15 | 102:19 145:6 | 125:6 127:17,23 |
| show 63:6,13,18,21 | sit- 117:17 | 96:16 100:6,14,24 | son 15:11 | 129:1 130:16 |
| 64:13,18,23 67:23 | sit-down 88:22,23 | 101:5,9,14 103:15 | sorry 6:14 18:15 | speeches 27:14 |
| 113:22 115:15 | 92:25 | 104:5 105:6,14 | 21:7 24:9 25:5 | spell 5:6 |
| showed 45:9 61:7 | sitting 45:12 82:22 | 106:7,11,13,15,18 | 30:2 34:17 41:7 | spend 73:5 |
| 65:12 142:5 | 88:25 94:17 97:10 | 106:20,25 109:11 | 53:10 56:25 60:2 | spent 50:20,21 |
| showers 45:20 | 117:12 124:23 | 110:4,15 111:3,14 | 76:22 104:8,9 | Sr 1:5 4:6 |
| showing 118:5 | situation 7:11 | 111:16,22 112:8 | 116:5 121:4 | stabbed 47:12 |
| 121:5 | 21:18 30:25 81:20 | 112:10,18 113:12 | 131:13 147:16 | stalk 19:16 20:9,13 |
| shows 63:7,22 64:1 | 89:12 100:2 161:2 | 114:2,5,9,13,15 | 151:2 152:10 | 20:20 21:8 22:4 |
| 68:23 146:5 | situations 92:21 | 114:18,21,24 | 154:19 | stalked 20:18 |
| shutting 89:14 | 103:5 | 115:1,4,5,11,13 | sort 6:6,12,19 8:8 | stalker 22:7 |
| sic 4:12 | six 64:6 | 115:14,23 116:3,7 | 12:22 18:23 72:22 | stalkers 22:23 |
| side 8:9 29:18 30:5 | slightly 69:3 | 117:3,16 118:9,13 | 97:3,4 110:19 | stalking 19:23 20:9 |
| 31:13,23 32:23 | Smith 2:13 4:25,25 | 118:22,25 119:1 | 113:3,13 119:19 | 20:16 65:18,22 |
| 34:10 35:7 36:3 | 5:5 6:15,16 9:8,12 | 119:24 121:22 | 124:13 143:16 | 124:13 |
| 37:11 46:5 56:17 | 11:24 12:24 13:4 | 122:2 123:11,24 | 147:20 149:23 | stance 149:21,25 |
| 66:24,25 67:18 | 14:2,10,20,23 | 124:6,15,20 | sounded 97:2,2 | stand 115:9 |
| 68:24,24 72:9 | 15:5,9,13,17,22 | 125:11,23 126:20 | sounds 82:4 144:8 | standard 43:14 |
| 94:23 96:10,11 | 16:6,15,22 17:2,8 | 127:11,15,18 | South 4:11 143:13 | 50:9 51:4 79:11 |
| 97:7 99:15,16 | 17:14,21 18:3,8 | 128:4,22 129:3,12 | 145:20,22 | 79:12,14 80:10,14 |
| 114:18,19,19 | 18:19 19:8,14,21 | 129:19 130:6,10 | space 17:15 34:6 | 109:9,10,12 |
| 116:8,11 117:22 | 20:1,6,19,24 21:1 | 130:22 131:14,15 | 79:18 | 134:12 163:4,6,7 |
| 117:22,23 118:2,3 | 21:5,13,20,23 | 132:11,14 135:17 | speak 69:22 75:2 | 163:8 |
| 118:6,7,8 120:9 | 22:9 23:3,14 | 135:19,22 137:17 | 111:5 | standards 7:24 8:1 |
| 121:5 123:21,22 | 24:10,14,17 29:1 | 137:19,22 138:1,4 | speaking 16:23 | 49:11 110:25 |
| 143:13 145:20,22 | 29:3 30:1 37:24 | 138:9,13 139:9,13 | 77:12 87:3 88:2 | 133:11 134:11 |
| sides 69:9 114:15 | 41:9,12,14,20 | 139:20 140:1,4,6 | 95:2 96:10 | 136:8,11,15 |
| 115:18 | 46:23 47:23 51:23 | 140:9,14,20 | specific 16:11 78:7 | 138:17 148:23 |
| sight 117:24 119:5 | 52:11,13 53:6,11 | 141:22 142:1 | 80:5 126:25 134:9 | 151:22 152:1,15 |
| signage 108:22 | 53:14,19 54:4,7 | 143:23 144:2 | 134:10 142:16 | 152:18 153:13 |
| signal 84:11 | 54:11,14,17,18,22 | 146:18,22,25 | 144:20 145:1 | 156:15 162:4 |
| signature 152:11 | 55:1,7,16 59:20 | 147:2,7,9,12,14 | 162:8,12 | standing 97:22 |
| 163:17,21 165:1 | 59:23 61:16 63:1 | 147:17 148:19 | specifically 139:14 | start 7:10 23:10 |
| similar 27:10 81:20 | 63:4,5,20 65:4 | 149:19 150:17 | 158:2,20 | 96:7 116:4 |
| 83:11,14 92:22 | 66:4,21 67:2,5,12 | 151:1 152:9 153:5 | specifics 56:20 | started 23:24 117:9 |
| 118:19 126:17 | 68:4,7,9 69:11,18 | 153:8 154:24,25 | speculate 70:4 | 159:5 |
| 127:1 131:3,8 | 69:24 70:7,16 | 157:21 159:18,21 | speculating 107:10 | starting 116:10,11 |
| 143:20 154:1 | 71:7,13,15,17,19 | 159:24 163:3,14 | speculation 11:13 | 118:6 121:7 |
| simple 102:16 | 71:21 72:5,20 | 163:17,19,22 | 61:11 65:3 66:18 | starts 13:22 94:20 |
| sir 14:13 16:7 | 73:4 74:7,10,24 | social 22:5 | 68:2 70:2 72:17 | 118:14 131:19 |
| 70:17 84:14 105:7 | 75:8,17 76:11 | society 22:24 | 75:12,24 95:9 | 132:25 135:9 |
| 109:12 111:4,8 | 77:2,4,9,14,20,22 | solely 156:18 | 100:11,22 101:2 | 144:17 |
| 112:20 117:4 | 77:23 78:19,24 | solutions 109:19 | 101:10 103:13,22 | state 4:21 5:6 27:25 |

| | | | | |
|---|--|--|--|--|
| 92:3 111:2 136:1 136:2 146:16 stated 154:11,14 statement 12:19 16:3 26:2 107:15 STATES 1:1 statistic 26:11 statistics 131:22,25 132:9,21 statutes 162:19 stay 93:18 stayed 17:4 160:22 161:1 step 103:25 stepping 144:7 steps 8:23 79:15 109:16 156:8 stick 115:7 stop 23:9 94:20 147:14 stopped 98:19 125:14,18 126:7 148:13 store 32:17 33:12 33:12 56:21 156:24 straight 72:23 126:12 strategies 12:14 27:13 88:15 street 1:22 2:7,15 4:4,12 66:24 67:19 68:24 73:22 117:22,23 143:10 145:12 streets 113:11 stress 96:3,4 strike 19:15 151:5 161:17 strong 100:4 strongly 13:18 struck 36:9 stuff 25:20 132:8 144:5 156:2 stumble 22:19 style 6:5 12:7,21 13:8,19,23 14:3 | 15:19,23 64:23 69:8 78:16 91:4,8 92:6,11 96:12 99:15 103:9,19 104:17,23 127:5 127:12 143:20 149:10,11,17 153:1,4,11 styled 93:23 95:3 154:1 subject 28:16 subjects 28:17 submitted 9:21 substance 32:11 substances 26:9 substitute 105:9 success 13:15 successful 15:6,11 20:5 21:24 succession 73:12 73:13 sued 43:25 44:1 suffered 136:16 Suite 1:23 2:8,16 4:4,4 summary 46:11 sundry 45:6 supervisor 45:5 46:3 47:12 support 7:22 85:12 86:1 138:6 148:10 suppose 8:4 22:17 38:6 supposed 38:24 supposedly 45:14 sure 5:19 24:16 45:9 51:3 66:12 81:11 82:2,12 83:4 87:16,23 95:21 98:24 100:23 106:18 107:6 114:16 115:8 130:18 133:25 surreptitiously 35:14 surrounding 68:21 | surveillance 49:19 65:7,10 82:14 83:23 84:21 119:21 120:13 121:2 survey 138:21 SUV 65:18 66:9,10 66:14,22 67:14 68:23 73:22 119:9 120:4,5 121:13,16 121:17 122:3 123:21 125:4 SUV-looking 66:5 swearing 97:1 switch 120:8 switching 106:9 sworn 4:19 164:10 system 83:5,22 systems 82:12 | Tap 32:15 target 6:10,11,18 8:14 11:2 23:1 72:12,22 95:11 targeted 12:6,7,20 13:8 14:3,17,24 15:18 70:20 74:22 75:1 76:1 127:12 127:21 128:2,10 128:24 129:13,22 129:25 130:1 targeting 129:17 targets 63:24 taught 26:12,22 27:1,7,9,24 Tavco 30:24 tavern 86:22 teach 26:13 27:6 28:1 teacher 26:17 teachings 26:24 telephone 55:2 tell 7:7 12:18 26:5 44:4 52:1 76:19 111:9,10 112:3 121:13 123:9 130:18 134:18 136:4 156:21 tells 91:11,15 ten 14:18 58:11 tend 93:18 tends 38:16 term 22:22 75:1 78:21 105:7 129:21 133:5 137:1,2,3 150:9 termed 10:24 93:23 terms 27:12 31:11 55:6 56:1 61:19 80:5 91:12 103:2 137:6 141:18 156:12 testified 39:5,9 90:5 142:23 143:19 153:3 159:20 160:5,11 160:16 | testify 31:12,23 33:18 34:10,16 35:7,17 36:3,25 37:11 38:25 39:23 40:21 45:22 164:11 testifying 32:23 39:6 testimony 29:8,8 31:15,17,25 32:5 32:8 33:7,20 34:18 35:9,19 36:5,10,12 37:2 37:13 39:2 40:14 40:23 45:24 46:7 49:24 50:11 52:15 90:1 91:3 98:7 113:16,20 155:2 164:4,12 165:3 textbook 134:9 textbooks 134:2 Thank 4:20 9:11 51:25 135:20 thing 8:18 11:21 12:22 17:23 29:1 83:1,7 119:19 143:16 things 10:24 27:16 60:5 63:10 85:7 86:19 91:12 94:24 102:13 135:6 138:24 148:1 149:1 153:23,24 162:1 164:6 think 18:21 22:1 23:2,20 24:1 25:17 28:15 32:3 38:7,22 49:5 54:4 54:4 56:2 59:2 60:11,22 62:25 66:11 82:9 86:23 90:18 92:19 104:8 104:24 109:15 124:4 125:21 131:16 135:8 136:23 137:4 139:2 141:19 |
|---|--|--|--|--|

| | | | | |
|--|--|---|---|--|
| 149:17 153:3 155:5 156:3 157:23,24 158:6 158:13,14 162:7 163:13 thinking 7:18 70:3 70:12 third 30:24 60:4 thought 62:19 161:19 thoughts 139:14 three 10:3 27:24 34:4,8 37:7 63:8 78:5 86:14,14,18 99:2 144:25 three-year 58:21 58:25 thrown 46:11 time 4:2,17 10:17 20:8,11 21:16 22:14 23:17,17 26:22 27:7 30:20 31:5 36:17 47:10 67:18,21,25 73:5 74:19,19 77:14,16 88:1,5,7 89:11 92:4 96:11 97:20 98:6,10,15 102:18 114:11,15 117:7 119:14 120:15,24 121:2 124:9 126:8 145:10 150:2 155:5,6 158:15 times 22:18 50:5,20 64:3 151:14,19,20 timing 116:12 title 55:23,24 today 4:14 5:7,20 9:20 25:4,8 64:16 65:1 76:14 112:22 155:2,7,14 158:1 158:8,12 159:1,23 160:5 today's 50:22 Toju 29:24,24 32:2 told 112:22 132:8 tool 141:14 144:12 | 156:24 top 25:17 46:16 127:1 133:10 topics 27:9,16 total 50:22 53:3,5,6 53:7,24 54:1 totally 119:11 touching 27:11 tow 36:9 track 25:23 48:23 tracking 64:5 Tracy 37:6 traffic 104:3 trained 105:5 149:25 160:22 training 6:19 13:25 59:17 76:12 91:12 91:13,14 124:16 145:5 146:19 162:1 transaction 88:8 transactions 88:9 88:11 89:16 transcribed 164:15 transcript 164:3 transcripts 48:15 48:18,21 156:1 trash 90:16,20 91:22 125:22 treatise 133:22 treatises 28:17 49:7 133:9,17 134:13 trial 29:8 31:15,17 31:25 32:5 33:7 33:20 34:18 35:9 35:19 36:5,12 37:2,13 39:2 40:14,23 45:24 46:7,17 50:11,13 56:22 112:21 tried 36:18,20 75:6 trier 113:17,20 TRKYMIK 39:13 trot 122:18 truck 36:9 true 147:9 164:3 truth 164:11,11,12 | truthful 52:14 try 21:15 83:7 95:10,17 96:6 115:10 132:1 trying 60:18 89:13 103:23 125:21 129:23 143:3 turn 87:4 131:18 turned 67:17 126:13 146:17,23 146:25 turning 68:23 twice 14:8 two 8:2 28:23 29:4 31:3 35:4 44:22 63:8 64:14,21,25 69:2,7 70:23 72:10 74:3,3,13 74:21 75:21 78:13 93:14 100:7,16 120:25 122:13,15 123:2,14,20 125:3 125:4,9 128:2,11 130:14,14 131:21 144:25 156:8,9 161:5 two-flat 35:25 type 8:13 18:24 26:25 31:2 39:25 44:8 52:21 56:19 58:2 66:14 69:14 81:20 83:11,14 85:20 121:17 124:17,18 143:20 145:11 types 7:9 24:25 25:2,6 43:15 47:5 57:6 63:10 132:2 typewriting 164:15 | 5:23 6:24 47:25 48:6 60:18 80:20 95:24 96:4 102:23 107:6 140:10 143:2 understanding 9:2 79:15 80:2,12 95:16 understood 28:8 unduly 80:1 uniform 94:22 UNITED 1:1 units 83:3 University 27:1,25 unloading 73:17 unpreventable 11:11 unreasonable 79:23 upstairs 35:24 use 7:12 93:24 105:7 113:6 129:25 134:4,13 134:17,19,22 136:7,10,14 137:1 138:16 148:22 152:14 162:22 USRA 56:2 usually 8:7,14 10:24,24 13:18 16:16 21:18 24:5 102:17 utilized 7:21 | 122:6 126:9,17 vehicles 20:21 21:9 102:5 119:18 venue 56:4 venues 25:13 versus 4:6 7:25 13:6 25:10,20 29:14,24 30:24 31:20 32:14 33:13 34:3,12 35:22 39:13 45:16 49:25 52:8 55:10 80:19 86:11,12 87:22 92:16,20 93:10 101:16 102:24 107:9 130:2 vicinity 100:9 125:15 victim 19:23 20:8 20:17 21:15 22:3 22:4 32:19 42:1 43:18,19,21 victims 19:17 20:21 21:9 76:10 victims' 151:7 video 1:15 4:16 39:16,18 49:20 60:24 61:3,6 65:16,17 67:3,10 67:13,13,24 68:6 68:14,16,20 71:21 72:9 81:21 83:14 95:5 96:13 98:6 101:9,19 105:1,2 112:24 113:22 114:6 116:12 119:14,21 120:12 120:24 122:11 123:6,20 124:4 149:22 video-recorded 4:5 videotape 74:5 view 118:3 119:11 120:2 viewed 150:14 Village 31:21 violation 90:8 |
| | | U Ulisa 34:20 ultimate 18:4 ultimately 32:18 36:23 47:12 100:1 Um 52:25 under- 105:11 understand 5:20 | V vagueness 37:22 vandalism 82:4 variable 20:8 variety 11:6 various 45:6 vehicle 65:22 66:5 66:14,15,16 67:8 67:11,14,15,17 68:16 69:3,8,9 71:6 72:11,12,22 72:23,25 73:6,9 75:5,7 76:8 93:13 116:17 117:20 | |

| | | | | | |
|----------------------------|---------------------------|---------------------------|---------------------------|-------------------------|--|
| violence 6:22 | 85:22 92:5 94:18 | 149:6 152:13 | 105:13 106:5 | 160:17,18 161:1,3 | |
| vis-à-vis 140:25 | 97:7 99:3 100:18 | 154:1,3,8 156:5 | 110:7 112:17 | 161:24 | |
| visit 88:10 | 103:7,16,16 | 156:13 161:14,19 | 113:10 116:25 | wouldn't 13:2 | |
| visiting 37:8 | 105:23 119:6 | went 23:21 37:8 | 118:12 121:25 | 69:15 124:22 | |
| visitors 34:4 | 126:22 127:3,5 | 44:4 45:11 67:16 | 123:9 124:3 125:8 | 159:14 | |
| visits 45:6 | 130:18 136:22 | 72:22 82:25 | 125:21 127:9,24 | Wow 25:22 | |
| vitae 9:16 | 155:22 | 141:13 | 128:14 129:2,9,23 | wrestling 129:24 | |
| Vonzell 1:5 4:6 | ways 18:4 22:4 | weren't 61:7 70:17 | 130:17 135:21 | write 48:25 | |
| vs 1:9 | 57:6 103:2 | west 2:7 67:18 | 137:18 138:12 | written 28:16 | |
| vulnerable 89:10 | we'll 48:3 49:16 | 96:10 114:18 | 139:6 140:13,17 | wrong 29:1 76:6 | |
| W | | | | | |
| wait 21:16 22:11 | 54:17 65:16 101:9 | 117:23 | 144:1 147:16,19 | 82:11 136:4 | |
| 151:25 152:2 | 115:19 163:20 | What'd 158:9 | 148:18 149:13,16 | 141:19 | |
| 154:17,17,17 | we're 6:8 22:21,21 | WHEREOF 165:3 | 150:13,24 152:6 | X | |
| Waive 163:17 | 25:3,8 47:24 55:5 | white 66:12 93:2 | 163:11,13 164:5 | | |
| walk 12:16 97:16 | 64:15,25 65:12 | 129:10,16 | 164:10,14 165:2 | | |
| walking 102:1,5,10 | 92:2 93:7 115:24 | who've 96:3 | witnessed 126:17 | | |
| 113:21 120:17 | 116:8 118:5 120:8 | whoa 141:21,24 | 126:24 | | |
| 122:15 | 135:16 139:21 | wide 11:6 | witnesses 17:9 | | |
| walks 102:11,19,21 | 158:19 | window 88:13,16 | 88:25 | | |
| want 7:14 8:19 | we've 18:21 31:18 | 89:16,24 96:24 | women 37:7 | | |
| 9:23 13:5 20:4 | 32:3 114:6 | 97:16 99:11 | Woods 32:14 | | |
| 22:14 23:8 48:2 | weak 23:2 | 120:22 160:24,24 | Woodworth 30:24 | | |
| 49:22 58:10 67:15 | weapons 73:10 | 161:4 | word 105:10 | | |
| 79:9,24 87:6 | Wearing 94:22 | witness 4:14,19 | 129:25 | | |
| 90:22,23 92:20 | web 49:12 | 11:15 13:2,14 | words 77:19 79:16 | | |
| 93:19,21 94:9,16 | webinars 27:14,20 | 15:4,8,16,21 16:5 | work 10:18 12:13 | | |
| 101:15,15 106:8 | Webster 27:1,5 | 16:9,20 17:6,10 | 22:6,8 23:22,25 | | |
| 113:22 131:11,18 | Wednesday 1:16 | 17:12,20 18:2,12 | 24:24 48:24 52:9 | | |
| 132:23 139:18,25 | 4:2 | 18:14 19:3,13,20 | 52:18,21,23 53:16 | | |
| 140:2,6,6,9 | welcoming 87:7 | 19:25 20:4,15,23 | 55:3,9,11,18 | | |
| wanted 48:5 107:1 | well-reasoned | 21:12 22:1,17 | 57:15,16 82:12 | | |
| wants 16:11 93:12 | 108:12 | 23:11 41:13,16,18 | 86:11 110:13 | | |
| 140:15 | well-trained 94:15 | 46:22 52:12 61:12 | worked 6:25 7:2,5 | | |
| war 7:5 | Wendy 125:15 | 61:14 65:24 66:19 | 7:19 9:24 55:17 | | |
| warrants 98:21 | Wendy's 1:11 4:7 | 67:9 68:8 69:15 | working 23:10,10 | | |
| Washington 2:7 | 64:14 66:2,24,25 | 69:22 70:4,13 | 24:10 83:5,6,12 | | |
| wasn't 42:1 59:8,13 | 78:17 83:15 84:6 | 71:4,14,16,25 | 83:22,23 136:22 | | |
| 62:17 66:20 90:10 | 86:11 91:5 96:11 | 72:18 73:2 74:8 | works 97:7 | | |
| 125:24 146:17 | 105:17 117:23 | 75:2,14,25 77:1,3 | world 23:16 | | |
| 160:17 | 121:20 123:22 | 77:8,21 78:23 | worship 22:6 | | |
| watch 21:15 | 125:14,16,17,19 | 81:7 82:3 83:21 | would've 40:9 41:1 | | |
| Waukegan 9:24 | 126:3,5,12 136:6 | 84:18 91:7,10,20 | 42:10,14 43:6,12 | | |
| 10:2 | 136:7,13,13,25 | 91:21 92:9,12 | 43:23 60:12,22 | | |
| way 16:24 28:10 | 137:6 138:15,21 | 94:4 95:10 96:20 | 99:14 100:20 | | |
| 36:20 40:1 50:2 | 140:25 141:15 | 99:22 100:13,23 | 101:3 104:18 | | |
| 61:4,9,25 76:13 | 143:8,21 145:8,13 | 101:3,12 103:14 | 105:19,21,22 | | |
| | 145:14 148:22 | 103:23 104:22 | 136:13 139:16 | | |
| Z | | | | | |

| | | | | |
|--------------------|---------------|---------------|---------------|---------------|
| zero 144:18 | 0:12:57 11:17 | 0:23:31 20:11 | 0:35:39 28:9 | 0:47:21 35:6 |
| zone 7:25 8:6,7 | 0:13:04 11:20 | 0:23:35 20:14 | 0:35:47 28:12 | 0:47:31 35:10 |
| zones 7:5,6,7,9,17 | 0:13:20 11:23 | 0:23:59 20:18 | 0:35:54 28:15 | 0:48:04 35:16 |
| 146:14 | 0:13:33 12:2 | 0:24:11 20:22 | 0:36:05 28:19 | 0:48:23 35:20 |
| <hr/> | 0:14:01 12:8 | 0:24:20 21:2 | 0:36:23 28:22 | 0:48:48 35:25 |
| 0 | 0:14:09 12:10 | 0:24:31 21:7 | 0:36:37 28:25 | 0:49:07 36:3 |
| 0:00:32 4:9 | 0:14:33 12:14 | 0:24:42 21:11 | 0:36:45 29:5 | 0:49:12 36:6 |
| 0:00:44 4:14 | 0:14:52 12:19 | 0:24:50 21:16 | 0:36:55 29:9 | 0:49:41 36:9 |
| 0:00:52 4:18 | 0:15:08 12:22 | 0:24:54 21:21 | 0:37:02 29:12 | 0:49:56 36:12 |
| 0:01:01 4:22 | 0:15:21 13:3 | 0:25:14 22:3 | 0:37:08 29:15 | 0:50:23 36:17 |
| 0:01:06 5:1 | 0:15:41 13:10 | 0:25:45 22:8 | 0:37:30 29:18 | 0:50:41 36:21 |
| 0:01:11 5:7 | 0:15:48 13:13 | 0:26:02 22:13 | 0:37:38 29:22 | 0:50:56 36:24 |
| 0:01:26 5:12 | 0:16:13 13:17 | 0:26:15 22:18 | 0:37:51 30:2 | 0:51:01 37:2 |
| 0:01:34 5:17 | 0:16:30 13:20 | 0:26:30 22:22 | 0:38:12 30:6 | 0:51:09 37:6 |
| 0:01:44 5:22 | 0:16:50 13:24 | 0:26:50 22:25 | 0:38:22 30:9 | 0:51:37 37:10 |
| 0:01:49 5:25 | 0:17:22 14:6 | 0:27:10 23:6 | 0:38:32 30:12 | 0:51:47 37:13 |
| 0:02:06 6:3 | 0:17:28 14:11 | 0:27:37 23:11 | 0:38:39 30:17 | 0:51:57 37:17 |
| 0:02:14 6:6 | 0:17:40 14:15 | 0:27:43 23:15 | 0:38:49 30:21 | 0:52:10 37:21 |
| 0:03:05 6:11 | 0:17:55 14:19 | 0:27:59 23:19 | 0:39:06 30:25 | 0:52:19 37:25 |
| 0:03:15 6:14 | 0:18:00 14:25 | 0:28:35 23:23 | 0:39:23 31:4 | 0:52:29 38:4 |
| 0:03:34 6:19 | 0:18:05 15:3 | 0:28:53 24:3 | 0:39:32 31:7 | 0:52:53 38:9 |
| 0:03:44 6:23 | 0:18:10 15:7 | 0:29:01 24:7 | 0:39:54 31:11 | 0:53:01 38:12 |
| 0:03:59 7:2 | 0:18:18 15:11 | 0:29:10 24:11 | 0:40:04 31:15 | 0:53:26 38:18 |
| 0:04:05 7:5 | 0:18:21 15:16 | 0:29:13 24:16 | 0:40:11 31:19 | 0:53:47 38:22 |
| 0:04:20 7:9 | 0:18:26 15:20 | 0:29:28 24:21 | 0:40:35 31:22 | 0:54:16 38:25 |
| 0:04:49 7:13 | 0:18:51 16:2 | 0:29:55 25:1 | 0:40:47 31:25 | 0:54:27 39:6 |
| 0:04:58 7:17 | 0:18:59 16:5 | 0:30:05 25:4 | 0:40:59 32:4 | 0:54:33 39:10 |
| 0:05:27 7:20 | 0:19:29 16:12 | 0:30:19 25:8 | 0:41:10 32:9 | 0:54:49 39:14 |
| 0:06:04 8:3 | 0:19:53 16:18 | 0:30:42 25:13 | 0:41:17 32:13 | 0:55:31 39:19 |
| 0:06:19 8:6 | 0:19:59 16:21 | 0:31:02 25:17 | 0:41:58 32:19 | 0:55:39 39:22 |
| 0:06:51 8:12 | 0:20:10 16:25 | 0:31:14 25:21 | 0:42:09 32:21 | 0:56:02 40:3 |
| 0:07:27 8:17 | 0:20:16 17:4 | 0:31:26 25:23 | 0:42:18 32:24 | 0:56:09 40:7 |
| 0:07:40 8:21 | 0:20:28 17:10 | 0:31:33 26:1 | 0:42:31 33:3 | 0:56:23 40:12 |
| 0:08:10 8:25 | 0:20:40 17:18 | 0:31:45 26:4 | 0:42:40 33:6 | 0:56:32 40:16 |
| 0:08:32 9:4 | 0:20:59 17:25 | 0:32:10 26:9 | 0:43:00 33:11 | 0:57:10 40:20 |
| 0:08:56 9:10 | 0:21:11 18:6 | 0:32:22 26:11 | 0:43:13 33:14 | 0:57:20 40:23 |
| 0:09:07 9:14 | 0:21:15 18:9 | 0:32:36 26:14 | 0:43:44 33:17 | 0:57:37 41:3 |
| 0:09:20 9:17 | 0:21:20 18:16 | 0:32:43 26:18 | 0:43:52 33:20 | 0:57:46 41:8 |
| 0:09:37 9:21 | 0:21:41 18:24 | 0:32:48 26:22 | 0:44:22 34:1 | 0:57:49 41:12 |
| 0:09:53 9:24 | 0:21:46 19:2 | 0:33:02 26:25 | 0:44:29 34:3 | 0:57:53 41:17 |
| 0:10:01 10:3 | 0:22:07 19:5 | 0:33:26 27:4 | 0:44:57 34:7 | 0:57:59 41:22 |
| 0:10:15 10:7 | 0:22:27 19:11 | 0:33:50 27:8 | 0:45:17 34:10 | 0:58:05 41:25 |
| 0:10:36 10:12 | 0:22:32 19:13 | 0:34:03 27:11 | 0:45:28 34:13 | 0:58:11 42:3 |
| 0:10:51 10:18 | 0:22:44 19:18 | 0:34:32 27:17 | 0:45:55 34:16 | 0:58:16 42:7 |
| 0:11:34 10:25 | 0:22:56 19:23 | 0:34:43 27:22 | 0:46:01 34:18 | 0:58:26 42:12 |
| 0:12:01 11:3 | 0:23:02 20:2 | 0:35:01 27:25 | 0:46:33 34:24 | 0:58:35 42:16 |
| 0:12:16 11:6 | 0:23:10 20:5 | 0:35:28 28:5 | 0:46:55 35:3 | 0:58:43 42:21 |
| 0:12:37 11:11 | | | | |

| | | | | |
|--------------------|----------------------|----------------------|----------------------|----------------------|
| 0:58:54 43:1 | 1:07:22 49:1 | 1:16:53 56:24 | 1:27:02 64:3 | 1:35:16 73:3 |
| 0:59:05 43:5 | 1:07:34 49:6 | 1:17:03 57:3 | 1:27:24 64:7 | 1:35:29 73:8 |
| 0:59:20 43:10 | 1:07:56 49:11 | 1:17:13 57:6 | 1:27:27 64:11 | 1:35:40 73:12 |
| 0:59:34 43:15 | 1:08:23 49:14 | 1:17:33 57:9 | 1:27:46 64:16 | 1:35:46 73:15 |
| 0:59:49 43:18 | 1:08:33 49:18 | 1:17:47 57:11 | 1:28 21:2 | 1:35:55 73:19 |
| 1 | 1:08:40 49:21 | 1:17:55 57:13 | 1:28:00 64:19 | 1:36:05 73:23 |
| 13:14 9:7,10 28:21 | 1:09:08 50:3 | 1:18:01 57:16 | 1:28:23 65:1 | 1:36:19 74:3 |
| 28:25 131:12,14 | 1:09:23 50:9 | 1:18:15 57:23 | 1:28:45 65:11 | 1:36:31 74:12 |
| 131:17 132:24 | 1:09:31 50:13 | 1:18:27 58:3 | 1:28:58 65:15 | 1:36:41 74:20 |
| 135:14 142:8,20 | 1:09:40 50:17 | 1:18:57 58:7 | 1:29 21:4 | 1:36:50 74:23 |
| 154:11,12 155:2 | 1:10:01 50:20 | 1:19:41 58:11 | 1:29:23 65:20 | 1:37:07 75:5 |
| 157:12,14 158:19 | 1:10:20 50:24 | 1:20:02 58:15 | 1:29:41 66:1 | 1:37:21 75:10 |
| 158:20 | 1:10:28 51:2 | 1:20:08 58:19 | 1:29:48 66:3 | 1:37:27 75:13 |
| 1- 143:4 157:15 | 1:10:40 51:5 | 1:20:23 58:23 | 1:29:50 66:7 | 1:37:50 75:22 |
| 1:00:19 43:22 | 1:10:46 51:9 | 1:20:33 59:2 | 1:29:59 66:12 | 1:38:07 76:2 |
| 1:00:29 43:25 | 1:11:03 51:15 | 1:20:40 59:5 | 1:30:15 66:17 | 1:38:22 76:5 |
| 1:00:43 44:5 | 1:11:07 51:19 | 1:20:51 59:12 | 1:30:22 66:20 | 1:38:41 76:8 |
| 1:01:01 44:11 | 1:11:24 51:21 | 1:21:01 59:15 | 1:30:34 66:25 | 1:39:06 76:17 |
| 1:01:05 44:14 | 1:11:37 52:2 | 1:21:10 59:19 | 1:30:37 67:6 | 1:39:17 76:22 |
| 1:01:28 44:18 | 1:11:49 52:4 | 1:21:13 59:25 | 1:30:47 67:11 | 1:39:21 77:1 |
| 1:01:45 44:22 | 1:12:02 52:9 | 1:21:21 60:2 | 1:31:14 67:21 | 1:39:24 77:4 |
| 1:02:12 45:3 | 1:12:05 52:11 | 1:21:38 60:6 | 1:31:23 67:25 | 1:39:38 77:8 |
| 1:02:31 45:7 | 1:12:13 52:15 | 1:21:48 60:10 | 1:31:27 68:3 | 1:39:42 77:13 |
| 1:02:55 45:14 | 1:12:20 52:18 | 1:21:56 60:13 | 1:31:31 68:7 | 1:39:47 77:16 |
| 1:03:05 45:17 | 1:12:28 52:22 | 1:22:26 60:16 | 1:31:36 68:15 | 1:39:58 77:20 |
| 1:03:31 45:21 | 1:12:44 52:25 | 1:22:31 60:23 | 1:31:48 68:21 | 1:40:14 78:1 |
| 1:03:37 45:23 | 1:12:52 53:5 | 1:22:44 61:1 | 1:31:57 68:25 | 1:40:27 78:4 |
| 1:03:47 46:1 | 1:13:02 53:8 | 1:22:58 61:5 | 1:32:09 69:5 | 1:40:44 78:7 |
| 1:04 4:3 | 1:13:09 53:13 | 1:23:09 61:9 | 1:32:18 69:9 | 1:41:01 78:10 |
| 1:04:10 46:5 | 1:13:26 53:25 | 1:23:14 61:13 | 1:32:23 69:14 | 1:41:53 78:17 |
| 1:04:20 46:9 | 1:13:31 54:3 | 1:23:24 61:18 | 1:32:31 69:17 | 1:41:58 78:22 |
| 1:04:29 46:12 | 1:13:36 54:10 | 1:23:48 61:23 | 1:32:37 69:23 | 1:42:07 79:1 |
| 1:04:47 46:16 | 1:13:40 54:16 | 1:23:55 61:25 | 1:32:45 70:3 | 1:42:16 79:4 |
| 1:04:52 46:18 | 1:13:50 54:23 | 1:24:05 62:3 | 1:32:54 70:6 | 1:42:38 79:8 |
| 1:05:00 46:21 | 1:14:07 55:3 | 1:24:16 62:6 | 1:33:02 70:10 | 1:43:00 79:12 |
| 1:05:09 47:1 | 1:14:24 55:6 | 1:24:24 62:10 | 1:33:13 70:15 | 1:43:35 79:18 |
| 1:05:18 47:4 | 1:14:50 55:12 | 1:24:35 62:13 | 1:33:22 70:21 | 1:43:56 79:21 |
| 1:05:27 47:8 | 1:14:57 55:15 | 1:24:57 62:18 | 1:33:36 71:1 | 1:44:21 80:1 |
| 1:05:58 47:12 | 1:15:09 55:19 | 1:25:12 62:21 | 1:33:49 71:6 | 1:44:49 80:6 |
| 1:06:07 47:14 | 1:15:20 55:22 | 1:25:20 62:25 | 1:34:00 71:12 | 1:45:07 80:11 |
| 1:06:13 47:19 | 1:15:42 56:1 | 1:25:27 63:4 | 1:34:06 71:17 | 1:45:15 80:14 |
| 1:06:22 47:25 | 1:15:56 56:4 | 1:25:47 63:9 | 1:34:12 71:24 | 1:45:46 80:19 |
| 1:06:31 48:4 | 1:16:11 56:8 | 1:26:04 63:14 | 1:34:33 72:4 | 1:45:59 80:23 |
| 1:06:46 48:9 | 1:16:15 56:14 | 1:26:26 63:18 | 1:34:50 72:13 | 1:46:07 81:1 |
| 1:06:51 48:13 | 1:16:22 56:17 | 1:26:33 63:22 | 1:34:55 72:17 | 1:46:12 81:5 |
| 1:06:58 48:18 | 1:16:37 56:21 | 1:26:43 63:25 | 1:35:07 72:23 | 1:46:21 81:9 |
| 1:07:03 48:22 | | | | |

| | | | | |
|----------------|-------------------|----------------|----------------|----------------|
| 1:46:25 81:13 | 100 11:18 | 2:05:59 93:8 | 2:17:56 101:2 | 2:28:21 108:23 |
| 1:46:33 81:17 | 11 135:3,10,13 | 2:06:31 93:16 | 2:18 47:21 | 2:28:50 109:3 |
| 1:46:48 81:22 | 111 2:7 | 2:07:01 93:21 | 2:18:07 101:8 | 2:29:07 109:9 |
| 1:46:56 82:1 | 115 3:17 | 2:07:33 93:25 | 2:18:14 101:11 | 2:29:13 109:13 |
| 1:47:24 82:8 | 118 1:22 2:15 4:4 | 2:07:58 94:6 | 2:18:28 101:17 | 2:29:35 109:17 |
| 1:47:54 82:15 | 12 165:8 | 2:08:18 94:10 | 2:18:38 101:21 | 2:30:01 109:21 |
| 1:48:09 82:18 | 13 116:6 | 2:08:39 94:14 | 2:18:58 102:2 | 2:30:24 110:2 |
| 1:48:35 82:25 | 1500 2:8 | 2:08:57 94:18 | 2:19:15 102:6 | 2:30:46 110:9 |
| 1:48:51 83:3 | 158 3:4 | 2:09:16 94:21 | 2:19:32 102:11 | 2:31:15 110:14 |
| 1:49:14 83:8 | 16 151:17,19,20 | 2:09:31 94:24 | 2:19:42 102:14 | 2:31:34 110:21 |
| 1:49:45 83:16 | 163 3:4 | 2:09:55 95:6 | 2:19:52 102:18 | 2:31:42 110:25 |
| 1:49:49 83:20 | 17 9:17 | 2:10:03 95:9 | 2:20:10 102:21 | 2:31:47 111:2 |
| 1:50:06 83:24 | 18 46:25 | 2:10:18 95:13 | 2:20:20 102:25 | 2:31:56 111:6 |
| 1:50:13 84:3 | 1988 10:16 | 2:10:24 95:18 | 2:20:28 103:3 | 2:32:03 111:9 |
| 1:50:26 84:7 | 1994 58:10 | 2:10:34 95:20 | 2:20:46 103:6 | 2:32:08 111:12 |
| 1:50:34 84:12 | 1995 24:1,3,19 | 2:10:47 95:24 | 2:21:06 103:11 | 2:32:12 111:15 |
| 1:50:44 84:16 | | 2:11 47:19 | 2:21:14 103:14 | 2:32:27 111:20 |
| 1:51:23 84:21 | <u>2</u> | 2:11:13 96:5 | 2:21:31 103:20 | 2:32:39 111:24 |
| 1:51:40 84:25 | 2 3:15 47:14,22 | 2:11:27 96:8 | 2:21:49 103:24 | 2:32:50 112:2 |
| 1:51:55 85:3 | 48:7 60:4 | 2:11:56 96:14 | 2:22:07 104:4 | 2:33:29 112:6 |
| 1:52:06 85:8 | 2:00 34:23 | 2:12:00 96:19 | 2:22:11 104:8 | 2:33:35 112:9 |
| 1:52:33 85:14 | 2:00:04 89:4 | 2:12:10 96:22 | 2:22:25 104:13 | 2:33:47 112:14 |
| 1:52:53 85:17 | 2:00:18 89:9 | 2:12:20 96:25 | 2:22:58 104:18 | 2:33:53 112:17 |
| 1:53:10 85:21 | 2:00:36 89:12 | 2:12:39 97:4 | 2:23:06 104:21 | 2:34:15 112:22 |
| 1:53:25 85:24 | 2:00:56 89:16 | 2:12:57 97:8 | 2:23:20 104:25 | 2:34:22 113:1 |
| 1:53:38 86:3 | 2:01:13 89:20 | 2:13:15 97:12 | 2:23:34 105:3 | 2:34:30 113:4 |
| 1:53:48 86:7 | 2:01:29 89:24 | 2:13:45 97:18 | 2:23:45 105:7 | 2:34:42 113:9 |
| 1:54:14 86:13 | 2:01:44 90:2 | 2:14:03 97:23 | 2:23:58 105:12 | 2:34:56 113:13 |
| 1:54:29 86:16 | 2:02:00 90:6 | 2:14:15 98:1 | 2:24:14 105:18 | 2:35:13 113:18 |
| 1:55:01 86:22 | 2:02:18 90:11 | 2:14:20 98:4 | 2:24:34 105:22 | 2:35:26 113:21 |
| 1:55:37 87:2 | 2:02:30 90:15 | 2:14:33 98:8 | 2:24:49 106:2 | 2:35:35 113:24 |
| 1:55:50 87:5 | 2:02:41 90:18 | 2:14:42 98:12 | 2:24:54 106:4 | 2:35:40 114:3 |
| 1:56:07 87:9 | 2:02:53 90:21 | 2:14:50 98:14 | 2:25:03 106:8 | 2:35:45 114:7 |
| 1:56:29 87:13 | 2:03:08 90:25 | 2:14:59 98:18 | 2:25:07 106:14 | 2:35:51 114:12 |
| 1:56:43 87:16 | 2:03:25 91:5 | 2:15:10 98:22 | 2:25:12 106:18 | 2:35:55 114:16 |
| 1:56:53 87:20 | 2:03:28 91:9 | 2:15:31 99:3 | 2:25:14 106:22 | 2:35:57 114:21 |
| 1:57:13 87:23 | 2:03:44 91:13 | 2:15:43 99:8 | 2:25:29 107:2 | 2:36:00 114:25 |
| 1:57:48 88:4 | 2:04:03 91:17 | 2:16:20 99:16 | 2:25:36 107:5 | 2:36:03 115:3 |
| 1:57:58 88:7 | 2:04:18 91:22 | 2:16:23 99:19 | 2:25:53 107:10 | 2:36:17 115:7 |
| 1:58:17 88:10 | 2:04:31 92:1 | 2:16:40 99:24 | 2:26:02 107:14 | 2:36:31 115:11 |
| 1:58:48 88:15 | 2:04:50 92:7 | 2:16:54 100:2 | 2:26:31 107:19 | 2:36:35 115:13 |
| 1:59:22 88:21 | 2:04:54 92:11 | 2:17:04 100:5 | 2:26:40 107:23 | 2:36:43 115:17 |
| 1:59:45 88:25 | 2:05:07 92:16 | 2:17:14 100:9 | 2:26:47 108:3 | 2:36:50 115:21 |
| 10 90:23 91:15 | 2:05:14 92:19 | 2:17:24 100:12 | 2:26:55 108:7 | 2:36:58 115:25 |
| 133:1,2 135:2 | 2:05:24 92:22 | 2:17:33 100:16 | 2:27:27 108:12 | 2:37:02 116:5 |
| 10:00 90:21 | 2:05:35 92:25 | 2:17:46 100:21 | 2:27:41 108:16 | 2:37:08 116:9 |
| 10:30 148:13 | 2:05:39 93:3 | 2:17:51 100:23 | 2:27:47 108:18 | 2:37:23 116:13 |
| | 2:05:53 93:6 | | | |

| | | | | |
|----------------|----------------|---------------------|----------------|----------------|
| 2:37:38 116:18 | 2:47:49 124:10 | 2:58:01 132:25 | 3:02:24 135:14 | 3:11:18 143:8 |
| 2:37:45 116:20 | 2:47:58 124:14 | 2:58:22 133:4 | 3:02:28 135:18 | 3:11:24 143:12 |
| 2:38:06 116:23 | 2:48:07 124:18 | 2:58:46 133:8 | 3:02:33 135:20 | 3:11:33 116:12 |
| 2:38:10 117:4 | 2:48:17 124:23 | 2:59:03 133:12 | 3:02:44 135:25 | 3:11:36 121:7 |
| 2:38:16 117:8 | 2:48:31 125:1 | 2:59:16 133:17 | 3:02:59 136:3 | 3:11:37 143:16 |
| 2:38:22 117:11 | 2:48:41 125:5 | 2:59:29 133:20 | 3:03:34 136:17 | 3:11:52 143:21 |
| 2:38:31 117:14 | 2:48:47 125:7 | 2:59:40 133:23 | 3:03:40 136:20 | 3:11:55 143:25 |
| 2:38:37 117:18 | 2:49:06 125:13 | 20 4:7 50:24 59:2 | 3:03:54 136:25 | 3:12 117:9 |
| 2:38:48 117:23 | 2:49:13 125:16 | 20- 53:15 | 3:04:03 137:3 | 3:12:01 144:5 |
| 2:39:03 118:1 | 2:49:21 125:19 | 2007 23:20 | 3:04:29 137:7 | 3:12:10 144:9 |
| 2:39:13 118:4 | 2:49:35 125:25 | 2018 46:24 64:13 | 3:04:44 137:9 | 3:12:36 144:13 |
| 2:39:21 118:6 | 2:49:52 126:3 | 78:15 85:10,14 | 3:05:07 137:13 | 3:12:50 117:18 |
| 2:39:25 118:10 | 2:50:08 126:9 | 86:3 89:23 105:17 | 3:05:25 137:16 | 3:12:51 144:16 |
| 2:39:32 118:15 | 2:50:15 126:13 | 2020 1:9 53:16 | 3:05:28 137:21 | 3:12:57 120:6 |
| 2:39:43 118:19 | 2:50:38 126:18 | 2021 53:16 | 3:05:31 138:2 | 3:13 122:8 |
| 2:40:02 118:21 | 2:50:49 126:23 | 2022 1:17 4:2 164:9 | 3:05:37 138:6 | 3:13:00 144:18 |
| 2:40:09 118:25 | 2:51:13 127:2 | 165:8 | 3:05:40 138:10 | 3:13:20 144:23 |
| 2:40:15 119:4 | 2:51:27 127:6 | 21 3:9 | 3:06:10 138:19 | 3:13:36 145:2 |
| 2:40:21 119:7 | 2:51:40 127:10 | 216 4:11 | 3:06:19 138:23 | 3:13:40 122:17 |
| 2:40:30 119:10 | 2:51:48 127:17 | 226 63:3 | 3:06:27 139:1 | 3:13:45 145:5 |
| 2:41:56 119:16 | 2:51:57 127:22 | 25 27:5 50:25 | 3:06:43 139:4 | 3:13:54 145:8 |
| 2:42:06 119:20 | 2:52:17 128:3 | 26 9:14 | 3:07:03 139:8 | 3:14:03 122:23 |
| 2:42:16 119:23 | 2:52:37 128:11 | 27 28:23 | 3:07:10 139:12 | 3:14:11 145:14 |
| 2:42:22 120:2 | 2:53:00 128:17 | 28 28:23 | 3:07:18 139:17 | 3:14:18 145:18 |
| 2:42:34 120:6 | 2:53:15 128:21 | 29 117:10 132:6 | 3:07:22 139:21 | 3:14:25 145:22 |
| 2:42:40 120:10 | 2:53:22 128:25 | 295 50:9 | 3:07:26 139:24 | 3:14:33 146:1 |
| 2:42:50 120:15 | 2:53:26 129:6 | ————— | 3:07:30 140:3 | 3:15:01 146:7 |
| 2:43:06 120:20 | 2:53:41 129:11 | 3 | 3:07:33 140:7 | 3:15:16 146:10 |
| 2:43:25 121:2 | 2:53:51 129:17 | 3 3:16 51:21,22,24 | 3:07:42 140:12 | 3:15:21 146:15 |
| 2:43:40 121:6 | 2:54:02 129:25 | 118:6 122:7 | 3:07:45 140:17 | 3:15:28 146:20 |
| 2:43:51 121:11 | 2:54:25 130:5 | 135:19 141:18,20 | 3:08:00 140:23 | 3:15:31 146:24 |
| 2:44:01 121:15 | 2:54:35 130:9 | 142:6,8,9,20,20 | 3:08:19 141:1 | 3:15:36 147:4 |
| 2:44:12 121:20 | 2:54:40 130:15 | 142:22,24 143:10 | 3:08:34 141:4 | 3:15:38 147:9 |
| 2:44:23 122:1 | 2:54:50 130:19 | 143:13 145:7,14 | 3:08:39 141:6 | 3:15:41 147:14 |
| 2:45:00 122:5 | 2:55:01 130:23 | 145:20,25 157:5 | 3:08:51 141:9 | 3:15:45 147:18 |
| 2:45:08 122:8 | 2:55:08 131:1 | 3- 157:9 | 3:09:14 141:14 | 3:15:51 147:22 |
| 2:45:16 122:11 | 2:55:25 131:4 | 3-mile 143:4 | 3:09:29 141:18 | 3:16:14 147:25 |
| 2:45:29 122:14 | 2:55:47 131:9 | 3,000 51:6 | 3:09:33 141:21 | 3:16:16 148:3 |
| 2:45:48 122:17 | 2:56:00 131:12 | 3:00 34:24 | 3:09:36 141:25 | 3:16:44 148:8 |
| 2:45:59 122:19 | 2:56:05 131:16 | 3:00:15 134:3 | 3:10:04 142:6 | 3:16:52 148:11 |
| 2:46:12 122:24 | 2:56:21 131:19 | 3:00:27 134:8 | 3:10:16 142:9 | 3:17:26 148:15 |
| 2:46:27 123:4 | 2:56:57 131:23 | 3:00:58 134:12 | 3:10:21 142:13 | 3:17:38 148:18 |
| 2:46:34 123:8 | 2:57:16 132:3 | 3:01:09 134:16 | 3:10:32 142:18 | 3:18:04 148:25 |
| 2:47:03 123:16 | 2:57:31 132:6 | 3:01:22 134:20 | 3:10:36 119:3 | 3:18:10 149:3 |
| 2:47:20 123:22 | 2:57:37 132:9 | 3:01:34 134:25 | 3:10:49 142:22 | 3:18:56 149:8 |
| 2:47:27 124:1 | 2:57:40 132:15 | 3:01:47 135:4 | 3:11:00 143:1 | 3:19:03 149:11 |
| 2:47:37 124:5 | 2:57:49 132:21 | 3:01:55 135:7 | 3:11:08 143:4 | 3:19:06 149:15 |
| | | 3:02:13 135:11 | | |

| | | | |
|----------------|--------------------|---------------------|--|
| 3:19:15 149:18 | 3:30:34 157:20 | 115:17,22 136:1 | |
| 3:19:26 149:23 | 3:30:47 157:25 | 140:12 148:14 | |
| 3:19:33 150:1 | 3:31:10 158:4 | 157:5 | |
| 3:19:42 150:4 | 3:31:20 158:6 | 4-mile 157:9 | |
| 3:19:53 150:8 | 3:31:25 158:9 | 4:56 163:23 | |
| 3:20:00 150:12 | 3:31:35 158:12 | 45 50:1 | |
| 3:20:19 150:16 | 3:31:53 158:15 | 47 3:15 | |
| 3:20:34 150:21 | 3:32:04 158:20 | | |
| 3:20:39 150:25 | 3:32:19 158:24 | 5 | |
| 3:20:56 151:5 | 3:32:24 159:2 | 5 3:4 106:17 140:12 | |
| 3:21:27 151:8 | 3:32:33 159:5 | 500 7:1 | |
| 3:21:30 151:10 | 3:32:42 159:10 | 51 3:16 | |
| 3:21:42 151:13 | 3:32:51 159:15 | 53 3:9 | |
| 3:22:08 151:17 | 3:32:54 160:1 | | |
| 3:22:20 151:20 | 3:33:05 160:5 | 6 | |
| 3:22:43 151:23 | 3:33:13 160:9 | 6 90:16,23 91:14 | |
| 3:22:45 152:4 | 3:33:37 160:14 | 142:9,20 148:6 | |
| 3:22:49 152:11 | 3:33:46 160:19 | 157:14 | |
| 3:23:03 152:17 | 3:34:06 160:25 | 6-mile 157:15 | |
| 3:23:30 152:23 | 3:34:29 161:6 | 60602 2:9 | |
| 3:23:48 153:1 | 3:35:16 161:11 | 60661 1:24 2:17 4:5 | |
| 3:23:51 153:4 | 3:35:23 161:15 | 60662 4:12 | |
| 3:23:55 153:9 | 3:36:04 161:22 | 6829 1:9 4:7 | |
| 3:24:34 153:14 | 3:36:17 162:2 | | |
| 3:24:51 153:18 | 3:36:20 162:6 | 7 | |
| 3:25:01 153:22 | 3:36:31 162:9 | 7 135:19 136:1 | |
| 3:25:05 153:24 | 3:36:37 162:13 | 148:6 | |
| 3:25:13 154:1 | 3:36:49 162:17 | | |
| 3:25:28 154:5 | 3:36:51 162:20 | 8 | |
| 3:25:43 154:9 | 3:36:58 162:24 | | |
| 3:25:59 154:14 | 3:37 106:21 | 9 | |
| 3:26:05 154:19 | 3:37:14 163:1 | 9 3:14 131:19 | |
| 3:26:29 154:23 | 3:37:33 163:7 | 132:25 | |
| 3:26:44 155:4 | 3:37:43 163:12 | 90 146:5 | |
| 3:26:59 155:8 | 3:37:51 163:16 | | |
| 3:27:27 155:15 | 3:37:55 163:19 | | |
| 3:27:49 155:19 | 3:44 106:24 | | |
| 3:28:00 155:23 | 30 51:2 164:9 | | |
| 3:28:10 156:2 | 300 1:23 2:16 4:5 | | |
| 3:29:02 156:9 | 30th 1:17 4:2 | | |
| 3:29:32 156:15 | 31st 64:13 85:14 | | |
| 3:29:43 156:18 | 86:3 105:17 | | |
| 3:30:04 156:25 | 37 119:3 | | |
| 3:30:16 157:4 | 395 50:11 | | |
| 3:30:20 157:9 | 3950 118:14 | | |
| 3:30:24 157:14 | | | |
| 3:30:28 157:16 | 4 | | |
| | 4 3:17 80:22 114:3 | | |